

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION

IN RE: RHODE ISLAND RESOURCE :  
RECOVERY CORPORATION PETITION : DOCKET NO. 3565  
FOR DECLARATORY JUDGMENT :

**MOTION TO RECONSIDER**

Petitioner, Rhode Island Resource Recovery Corporation (“Resource Recovery”) moves the State of Rhode Island Public Utilities Commission (the “Commission”) to reconsider its rejection of the proposed Settlement Agreement which is attached hereto as Exhibit A.

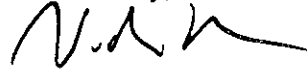
Resource Recovery requests that such reconsideration take place during an open meeting prior to the previously established briefing and oral argument schedule, so that the matter need not be delayed any further.

Resource Recovery respectfully submits to the Commission that the position submitted by the Rhode Island Division of Public Utilities (the “Division”) merits reconsideration with regard to the issue of whether the Settlement Agreement, if adopted, would render Resource Recovery a “public utility”.

Moreover, the position set forth by the Division regarding the applicability of the backup service tariff merits reconsideration as even the Division indicates that there is a “substantial ambiguity” in the tariff which gives rise to an open question that is capable of being resolved by the Settlement Agreement.

Respectfully submitted,

Rhode Island Resource Recovery Corporation,  
By Its Attorney,



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Date: October 11, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the within was served via e-mail and via first-class, postage prepaid mail upon the following on this 11<sup>th</sup> day of October, 2007:

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION

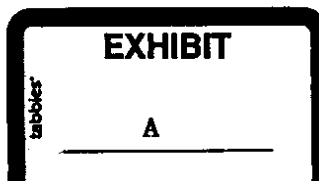
Rhode Island Resource Recovery Corporation )  
Petition for Declaratory Judgment )      Docket No. 3565

Settlement Agreement

This Settlement Agreement entered into on August 8, 2006, between The Narragansett Electric Company, d/b/a National Grid, a Rhode Island public utility and electric distribution company under R.I.G.L. § 39-1-2(12) ("Narragansett Electric"), and Rhode Island Resource Recovery Corporation, a corporation expressly established and organized by the Rhode Island General Assembly pursuant to R.I.G.L. § 23-19-1 *et. seq.* ("RIRRC"), resolves the matter raised by RIRRC's Petition for Declaratory Judgment filed with the Public Utilities Commission ("Commission") on October 22, 2003 in this docket. Narragansett Electric and RIRRC (together the "Parties") hereby agree to the following:

**Background**

1. RIRRC is a quasi-public corporation chartered by the Rhode Island General Assembly pursuant to Rhode Island General Laws § 23-19-1 *et seq.*, which is developing an industrial park (the "Industrial Park") on the following described property owned by RIRRC in Johnston: bounded on the north by Shun Pike and Scituate Avenue, bounded to the east by I-295, and bounded to the south and west by the northern and eastern shores (mean high water line) of the upper Simmons Reservoir and the lower Simmons Reservoir.
2. On or about June 23, 1998, RIRRC entered into a contract (the "Contract") with Rhode Island Hope Energy, L.P. ("Hope"), predecessor in interest to FPLE Rhode Island State Energy, L.P. ("FPL"), granting Hope the option to purchase property



for the construction of a 500 MW electric generating plant located in Johnston, Rhode Island (the "Plant").

3. The Contract provided in Section 10(c) that Hope would, under certain circumstances, permit a direct electrical connection of end users located within the Industrial Park ("Industrial Park Tenants") to the Plant.
4. FPL has acquired the Plant from Hope.
5. In this Docket, the Parties have engaged in discovery and on November 22, 2004, the Commission conducted a hearing on this matter.
6. Subsequent to the hearing, the Parties have conducted settlement negotiations and have agreed to resolve this dispute.
7. Narragansett Electric desires to encourage economic development in Rhode Island to the extent consistent with its obligations under law.
8. This Settlement Agreement is entered into by the Parties in recognition of the unique circumstances of this case, to wit:
  - RIRRC is a quasi-public agency and the developer of the Industrial Park;
  - The Plant was intended to be and is an integral part of the Industrial Park;
  - The availability of the direct connection will be used by RIRRC in marketing lots in the Industrial Park.

#### **Consent to Direct Connection**

9. Narragansett Electric will consent to and will not challenge the construction of a potential "direct connection" of Eligible Industrial Park Customers (defined below) to the Plant, up to a maximum of 40 MW aggregate load.
10. "Direct connection" to the Plant shall mean an electrical connection of Eligible Industrial Park Customers to the Plant. The direct connection shall be built and owned by RIRRC. It is acknowledged that this Settlement Agreement is intended to permit Eligible Industrial Park Customers to receive power over the direct connection only during periods when the Plant is actually operating and producing electricity. To the extent that Eligible Industrial Park Customers require back-up or supplemental service, said service is to be taken over distribution facilities owned and operated by Narragansett Electric. The definition of "direct connection" herein shall not in any way prejudice RIRRC or

FPL in the action pending in Providence County Superior Court captioned Rhode Island Resource Recovery Corporation v. FPL, C.A. No. PC06-3030.

11. Narragansett Electric shall not be responsible for designing, engineering, constructing, owning, operating, maintaining, or funding any part of the direct connection.
12. RIRRC shall be responsible for developing all necessary engineering plans and specifications for connections, metering, transfer switches, system voltage and system phasing. RIRRC's responsibility shall also include the cost of purchasing, installing and maintaining any switches and special metering that may be required at the premises of each Eligible Industrial Park Customer to transfer the customer's load between the direct connection and the Narragansett Electric distribution system. All plans and specifications for the direct connection shall (i) be prepared for RIRRC and stamped by a registered electrical engineer qualified and experienced with similar systems, (ii) be submitted by RIRRC to Narragansett Electric for review to determine compatibility with the Narragansett Electric system, and (iii) comply with all National Electric Code, National Electric Safety Code, fire code, and all other applicable requirements for electric service. The direct connection shall be designed to be compatible with existing Narragansett Electric distribution voltage at the location.
13. "Eligible Industrial Park Customers" shall mean entities that purchase or lease property in the Industrial Park and that represent new load to the Narragansett Electric system who have elected to receive electricity through a direct connection pursuant to this agreement. Eligible Industrial Park Customers shall not include any existing Narragansett Electric customers who transfer existing load to the Industrial Park, or the owners or tenants of any facilities constructed in the Industrial Park after December 31, 2011.
14. RIRRC represents that it does not intend to seek a direct connection to the transmission grid under this agreement or otherwise.

**Amending the Back-Up Tariff Provisions**

15. Narragansett Electric shall amend the availability provision in the existing R.I.P.U.C. back-up tariff rates (B-32 and B-62) such that the "direct connect"

deliveries to Eligible Industrial Park Customers will be treated as on-site generation. The Eligible Industrial Park Customers receiving direct connect service shall take service pursuant to Narragansett's back-up service rate schedules (as amended) on the following basis:

- (a) During periods the Plant is operating and producing MWh output to the transmission grid, the Eligible Industrial Park Customers receiving direct connect service shall take and pay for "back-up" service pursuant to the relevant back-up service rate schedule (B-32 or B-62).
- (b) During periods the Plant is not producing electrical output to the transmission grid, the Eligible Industrial Park Customers receiving direct connect service shall take and pay for "supplemental" service pursuant to the relevant back-up service rate schedule (B-32 or B-62) and not over the direct connection.
- (c) Nothing in this Settlement Agreement shall be deemed to restrict any Eligible Industrial Park Customer from (i) installing a unit or units to generate electricity for its own internal use provided that such Eligible Industrial Park Customer shall continue to pay for back-up service pursuant to the relevant back-up service rate schedule (B-32 or B-62); or (ii) "Islanding", as defined herein and subject to the terms hereof.
- (d) As used herein, the term "Islanding" (or "Islanded") shall mean a situation where the Eligible Industrial Park Customer has no direct or indirect connection to the transmission or distribution system (from which it can consume power produced by a remote generating source), and relies exclusively on (i) the direct connection during periods when the Plant is operating and producing MWh output to the transmission grid, and (ii) power produced by on-site generators owned by such Eligible Industrial Park Customer and located on the same site at which its facility is consuming the power.
- (e) In the event an Eligible Industrial Park Customer who has previously "Islanded" seeks to become a customer of Narragansett for regular, back-up or supplemental service, it shall pay a fee to Narragansett in an amount

determined by Narragansett and approved by the Commission which is calculated to compensate Narragansett for the incremental cost of any facilities necessary to serve such customer.

16. Direct connection facilities shall not cross streets or highways which are public or are planned to be dedicated to public use. Streets that are internal to the Industrial Park which are developed and constructed by RIRRC shall not, for the purposes of this Agreement, be considered to be public or planned for public dedication.

**Timing**

17. No facility in the Industrial Park may receive service through the direct connection unless such facility is connected and receiving such direct connection service on or before December 31, 2011.
18. If a direct connection is not constructed by December 31, 2011, all tenants of the Industrial Park shall be Narragansett Electric retail customers.

**No Representations or Warranties**

19. Narragansett Electric makes no representations or warranties as to the feasibility or economic viability of any direct connection under this Settlement Agreement.
20. Narragansett Electric makes no representations or warranties regarding the legality of the direct connection under federal or state law or regulations.

**Narragansett Electric's Reservation of Rights**

21. Narragansett Electric's agreement is premised on the construction and operation of the direct connection as described in this Settlement Agreement, including that Eligible Industrial Park Customers shall take service under the relevant back-up service rate schedules as described herein. Narragansett Electric reserves its rights to take any position as to the appropriateness of any proposed configuration or operation that is not in accordance with the provisions of this Settlement Agreement, including that such proposed configuration is illegal or not authorized by state and/or federal law and/or regulations.
22. Each Eligible Industrial Park Customer shall take service under Narragansett Electric's relevant back-up service rate schedule, and Narragansett Electric's terms and conditions of service shall apply.

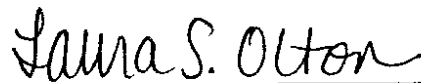


23. RIRRC shall be responsible for the cost of any facilities, in accord with the responsibilities of similarly situated customers, in addition to those specified in § 12 hereof, required by Narragansett Electric to provide electricity to all customers in the Industrial Park, including charges under the applicable line extension policy.

**Miscellaneous Provisions**


24. This Settlement Agreement is the product of settlement negotiations. The content of those negotiations is privileged and all offers of settlement shall be without prejudice to the position of any party.
25. This Settlement Agreement shall be subject to approval by the Commission. If the Commission should withhold approval of this Settlement Agreement, or should condition its approval upon any condition or modification that is unacceptable to any of the Parties, the Settlement Agreement shall be null and void and of no effect, and no Party shall cite it or use it for any purpose whatever.
26. This Settlement Agreement does not represent an admission by any party as to the merits of the matter, is not precedent for any entity, whether a party to this Settlement Agreement or not, and may not be cited or relied upon by anyone in any proceeding in the future.
27. This Settlement Agreement is null and void if RIRRC sells or otherwise transfers the Industrial Park or its right to develop the Industrial Park. This section shall not apply to the sale by RIRRC of individual lots in the Industrial Park to end users.

The Narragansett Electric Company  
d/b/a National Grid  
By its Attorneys,



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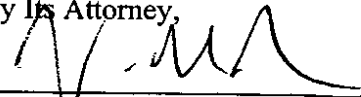
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Rhode Island Resource Recovery  
Corporation,  
By Its Attorney,



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August 8, 2006