October 17, 2005

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

RE: REGULATIONS TO IMPLEMENT A RENEWABLE ENERGY STANDARD PURSUANT TO R.I.G.L. §39-26-1 ET SEQ: DOCKET NO. 3659

Dear Ms. Massaro:

In response to the Commission's September 22, 2005 Proposed Rules and Regulations Governing the Implementation of a Renewable Energy Standard (RES), I would like to offer the following comments on behalf of SilentSherpa ECPS.

1. Identification and Reconciliation of Dr. Jon Raab's Conflict of Interest as a "neutral third party" Mediator/Facilitator of the Rulemaking Committee Proceedings

- At least one client of Raab Associates, Ltd. and one sponsor of Raab Associates' "Restructuring Roundtable" were party to the Rulemaking Committee that Dr. Raab was charged with managing "as a neutral third party". Apparently both the Rhode Island Renewable Energy Fund (RIREF) and National Grid (NGRID) [both organizations participants on the Rulemaking Committee] were financially engaged with Raab Associates during the course of the Rulemaking Committee proceedings.

- Furthermore, Dr. Raab's services on the Rulemaking Committee were paid for by the RIREF, itself a participant on the Rulemaking Committee. Under such circumstances, it is common for a professional mediator to recuse himself from the opportunity as his or her neutrality has been compromised. I would also note that SilentSherpa ECPS was the one dissenting vote on the Rulemaking Committee regarding the hiring of Dr. Raab [indicative of the overwhelming REC seller interests on the rulemaking committee]; in particular the use of RIREF subsidies to pay for his services.

- Dr. Raab exhibited biased treatment of both RIREF interest [i.e. introduction of long-term REC contracts into the rulemaking discussion] and NGRID interest [presentation on long-term REC contracts] throughout the rulemaking proceedings,

- In an email dated August 8, 2005 [attached] I had recommended to Mr. Doug Hartley that Dr. Raab "step down from his role as facilitator prior to issuing the rulemaking committee's comments to the Commission. I'd prefer that the rulemaking committee acknowledge its own mistake [albeit late] in hiring Jon, rather than the Commission possibly taking issue with comments administered by a conflicted party." Obviously my recommendation was not acted on.

- I will request that the Commission correct both Dr. Raab's and the Rulemaking Committee's misjudgments by disqualifying the RIRES Final Report issued by Dr. Raab to Mr. Hartley on August 15, 2005.

2. Request the Commission to Exercise Regulatory Oversight of the REDFund

- Specifically, it is our position that any actions pertaining to administration of the Renewable Energy Development Fund ("REDFund") be subject to the standards for contracts and procurement plans for renewable energy resources set forth by the Commission pursuant to Section 39-26-6 (a) (2) of the RES; in an effort to ensure the consumer both a public forum to voice concerns and/or recommendations regarding use of their funds as well as public advocacy by the Division of Public Utilities and Carriers ("DPUC") as necessary.

- Under the governing legislation, Section 39-26-6 (a) (2) requires the Commission to develop and adopt regulations which include provisions for "standards for contracts and procurement plans for renewable energy resources, to achieve the purposes of [the legislation]" (chapter 39-26).[1] There is nothing in 39-26-6 (a) (2) which justifies an interpretation that these regulations would not apply to the activities undertaken by the Economic Development Corporation in administering the REDFund. In fact, quite the opposite is the case, since in the section (39-26-7) dealing with the REDFund, specifically states in 39-26-7(b), "The economic development corporation shall enter into agreements with obligated entities to accept alternative compliance payments, consistent with the rules of the commission and the purposes set forth in this section;" Thus, Section 39-26-6 (a) (2) charges the Commission with developing standards for contracts and procurement plans for renewable energy resources generally, with the expectation that they be adhered to by all parties whose actions herewith are governed by this legislation. Those parties include obligated entities and the Economic Development Corporation (at least to the extent of RIEDC's administering the REDFund).

- The aforementioned standards for contracts and procurement plans are a critical protection for ratepayers, as it is a reasonable expectation that the REDFund may consist of a large amount of consumer funds via the ACP collected from obligated entities. Therefore, it is our opinion that the standards for contracts and procurement plans utilizing the REDFund deserve much attention and specificity in the regulations we are developing. The regulations required by Section 39-26-6 (a) (2) deserve the attention of this Commission, and their applicability to the REDFund in particular merits examination. Accordingly, we request that further definition as to the applicability of Section 39-26-6 to the purpose of the REDFund be addressed by the RIPUC.

- Commission oversight of the REDFund is no different than oversight of NGRID's Conservation Fund which is appropriated to the Rhode Island State Energy Office (RISEO) for funding the Rhode Island Renewable Energy Fund (RIREF). Both funds are the direct result of accumulated ratepayer monies [RIREF funds stream from NGRID payments, while the REDFunds stream from ACP payments by obligated entities].

[1] The purposes of the chapter are listed in 39-26-3. The purpose of this chapter is to facilitate the development of new renewable energy resources to supply electricity to customers in Rhode Island with goals of stabilizing long-term energy prices, enhancing environmental quality, and creating jobs in Rhode Island in the renewable energy sector.

- It is very disappointing that our position [via the attached June 13, 2005 Memo which was included as attachment to the Rulemaking Committee's Final Report to the Commission] on the Commission's requisite oversight of the REDFund [per section 39-29-6 (a) (2)] was not accepted by Commission Counsel as well as inaccurately conveyed to the Commission by its Counsel [per the attached Memo dated September 21, 2005]. Given the Commissioner's reliance on the position of its legal counsel in interpreting matters, I think it is incumbent upon counsel to more fully understand the basis of a party's position prior to judging or filtering that position to the Commission. Counsel's statement that "The real danger does not appear to be how EDC and the Board of Trustees will manage the Fund, but rather, whether the General Assembly will scoop it to plug budget holes as they did the Renewable money." is inaccurate and presumptuous. The structure of the Board of Trustees as it is proposed yields absolutely no experience in the procurement of renewable energy, nor are its acts subject to public scrutiny and/or effected change by the public. If these facts do not pose a threat to the proper use of ratepayer funds [in the laundered form of ACP's], I don't know what does. What the General Assembly does or does not do has nothing to do with this proceeding, and only adds a layer of unnecessary confusion to the reader as well as removes focus from my stated position.

- The complexity of market dynamics and energy contract structures surrounding the charge of the Board of Trustees should not be taken lightly and its proper execution certainly should not be assumed. As a matter of fact, the State of RI will likely fail its consumers [as it has to-date by not exploiting its own Restructuring Act to mitigate its own energy budget] by making no effort to bolster its intelligence on the competitive energy industry.

3. Caution the Commission regarding its apparent ordering of Narragansett Electric [pursuant to Section 8.3] to procure "long-term contracts which shall be made a part of the electric utility distribution company's portfolio for procuring its target percentage of Eligible Renewable Energy Resources for each Electrical Energy Product offered to End-use Customers."

- There is no mention of long-term contracting within the RIRES statute. The topic was born by interested parties within the rulemaking committee, which I believe is outside the scope of the rulemaking committee's charge in advising the Commission on implementation of the RES. Clarification of the statute's ambiguity is much different than recommending new methods of enhancing the statute's methodology.

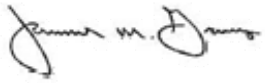
- Although long-term contracts possess the possibility of lower-costing renewable energy, ratepayer funds [via the ACP] should not be spent on "possibility," rather a precise, transparent and measurable means to justify allocation of the funds [i.e. market-based rates]. This is not to mention that long-term forward contracts also carry the risk of increased probability of poor market timing [relative to product price point]. I do not believe it is the intention of the RES to potentially penalize ratepayers on price-point.

- Long-term contracts grant the awarded supplier(s) excessive market power and competitive advantage for the term of the contract [i.e. reduction of potential future economic incentive for additional renewable generators, as future demand is off-set by long-term committed supply]. I do not believe it is the intention of the RES to economically discourage new market entry by competing renewable power generators.

- Utilities are charged with procuring market-based rates relative to satisfaction of their Supplier Services obligations [of which REC's are a part]. Long-term contracts are not "open market-based" rates as they are Over the Counter (OTC) forward contracts; not based on any open, liquid public market offering the consumer transparency to guard against unfair pricing practices [i.e. NYMEX NG Futures, ISO-NE RT-LMP, ISO-NE DA-LMP].

I would be happy to provide the Commission further detail on any of the aforementioned issues, or recommendations as to how to reconcile the stated issues upon request by the Commission. Thank you for your consideration of these comments.

Regards,



James M. Grasso
President

Enclosures