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1 STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
 2 PUBLIC UTILITIES COMMISSION  
 3  
 4  
 5 **HEARING IN RE:**  
 6 REGULATIONS TO IMPLEMENT A  
 7 RENEWABLE ENERGY STANDARD  
 8 PURSUANT TO R.I.G.L. 39-26-1, ET SEQ.  
 9  
 10 DOCKET NO. 3659  
 11 -----/  
 12  
 13 OCTOBER 12, 2005  
 14 9:30 A.M.  
 15 89 JEFFERSON BOULEVARD  
 16 WARWICK, RHODE ISLAND  
 17  
 18 **BEFORE:**  
 19 ROBERT B. HOLBROOK, COMMISSIONER, PRESIDING  
 20 MARY BRAY, COMMISSIONER  
 21 CYNTHIA WILSON-FRIAS, LEGAL COUNSEL  
 22 ALAN NAULT, RATE ANALYST  
 23  
 24

3

1 (COMMENCED AT 9:30 A.M.)  
 2 COMMISSIONER HOLBROOK: Good morning,  
 3 everyone. Thank you for coming. This morning's  
 4 meeting is in regard to Docket No. 3659  
 5 concerning regulations to implement a renewable  
 6 energy standard pursuant to Rhode Island General  
 7 Law 39-26-1. I'll read the notice.  
 8 Notice of rule making and public  
 9 hearing. Pursuant to the provisions of Rhode  
 10 Island General Laws 39-1, 42-35 and 42-46-6 of  
 11 the Rhode Island General Laws, as amended, the  
 12 Public Utilities Commission hereby gives notice  
 13 that it will conduct a hearing on Wednesday,  
 14 October 12th, 2005, at 9:30 a.m. in the first  
 15 floor hearing room of the Public Utilities  
 16 Commission at 89 Jefferson Boulevard, Warwick,  
 17 Rhode Island for the purpose of adopting  
 18 regulations to implement a renewable standard in  
 19 compliance with Rhode Island General Laws  
 20 39-26-1, et seq.  
 21 39-26-1, et seq, as amended, provides  
 22 that on or before December 31, 2005 regulations  
 23 be adopted to facilitate the development of a  
 24 renewable energy standard. The renewable energy

2

1 I-N-D-E-X  
 2 PAGE NO.  
 3 PUBLIC COMMENT  
 4 James M. Grasso 7  
 5 Sakis Asteriadis 59/167  
 6 Chris Wilhite 67  
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 9 Fred Unger 81  
 10 William P. Short, III 94  
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 13 Deborah Donovan 125  
 14 Dennis Duffy 132  
 15 John Farley 141  
 16 Chris Burnett 149  
 17 Robert Grace 155  
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1 standard requires annually increasing levels of  
 2 electric energy supply to customers in Rhode  
 3 Island generated using renewable resources as  
 4 defined in the statute. The goals are  
 5 stabilizing long-term energy prices, enhancing  
 6 environmental quality and creating jobs in Rhode  
 7 Island in the renewable energy sector. The  
 8 regulations will apply to any person or entity  
 9 that sells electrical energy to end user  
 10 customers in Rhode Island, including, but not  
 11 limited to, Narragansett Electric Company,  
 12 nonregulated power producers and electric utility  
 13 distribution companies as defined by Rhode Island  
 14 General Laws 39-1-2 and obligated entities as  
 15 defined by Rhode Island General Laws 39-26-1.  
 16 The proposed regulations are on file in  
 17 the Clerk's office at 89 Jefferson Boulevard,  
 18 Warwick, Rhode Island. A copy of the proposed  
 19 regulations may be obtained in person at the  
 20 Commission, by mail, by calling 941-4500,  
 21 Extension 107, or may be accessed at  
 22 [www.ripuc.org/eventsactions/docket/3659page.html](http://www.ripuc.org/eventsactions/docket/3659page.html).  
 23 Interested persons wishing to offer  
 24 data, views or argument on the proposed

1 regulations may do so either orally on the day of  
2 the hearing or in writing by submitting their  
3 comments to the Commission Clerk, Public  
4 Utilities Commission, 89 Jefferson Boulevard,  
5 Warwick, Rhode Island, 02888.

6 In addition, written comments will be  
7 accepted at the above address until 4:00 p.m. on  
8 October 24th, 2005. An original and nine copies  
9 of written comments must be filed with the Clerk.

10 Reference is also made to Chapters  
11 42-35 and 39-1 of the Rhode Island General Laws,  
12 specifically, Sections 42-35-1, 42-35-2, 42-35-3,  
13 42-35-4, 42-35-5, 39-1-1, 39-1-3, 39-1-11,  
14 39-1-18, 39-1-38 and 39-26-1, et seq. Signed  
15 Luly E. Massaro, Commission Clerk, dated  
16 September 23rd, 2005. Are there any appearances  
17 this morning?

18 MR. ROBINSON: Thomas Robinson for  
19 Narragansett Electric.

20 MR. LUEKER: William Lueker, Special  
21 Assistant Attorney General for the Division of  
22 Public Utilities and Carriers, and with me is Mr.  
23 David Stearns, rate analyst with the Division.

24 MR. DUFFY: Dennis Duffy with Energy

1 comments is October 24th at four o'clock. We've  
2 already received two sets of written comments,  
3 one from National Grid and one from the Union Of  
4 Concerned Scientists which have been placed into  
5 the docket.

6 COMMISSIONER HOLBROOK: We have a  
7 sign-up sheet for those interested in speaking on  
8 the issue. There are eight parties that are  
9 signed up so far. If you do wish to speak and  
10 have not signed up, I believe there is a sign-up  
11 sheet. Ms. Massaro has it in the back of the  
12 room.

13 When you do come to the podium to  
14 speak, it's your option either, I guess, to stand  
15 at the microphone in the back of the room or if  
16 you feel that you'd be more comfortable sitting  
17 down, you can proceed to the podium here and have  
18 a seat. The first party who would like to speak  
19 is Mr. James Grasso with Silent Sherpa. Mr.  
20 Grasso.

21 JAMES GRASSO (Sworn)

22 MR. GRASSO: Full name is James Grasso,  
23 business address is 63 Birchwood Drive in  
24 Cranston, Rhode Island, 02920. Good morning,

1 Management, Inc.

2 MR. EATON: Craig Eaton with Florida  
3 Power & Light.

4 MR. SHORT: Bill Short with Ridgewood  
5 Power Management.

6 MR. BURNETT: Craig Burnett with  
7 Spinblade Energy.

8 COMMISSIONER HOLBROOK: Thank you. On  
9 my right is Alan Nault, financial analyst with  
10 the Commission. On my left is Cynthia  
11 Wilson-Frias, Senior Legal Counsel to the  
12 Commission; and also to my left is Commissioner  
13 Mary Bray. I'm Robert Holbrook, a Commissioner  
14 with the Commission. Ms. Wilson, do you have any  
15 administrative matters?

16 MS. WILSON-FRIAS: Yes, Commissioner.  
17 First, as you indicated in the notice, we are in  
18 the formal rule making stage of this docket under  
19 the Administrative Procedures Act, so all members  
20 of the public, including those who had formally  
21 intervened earlier, have the same standing to  
22 provide comments. The Commission will consider  
23 all comments as given today and as filed. As  
24 indicated, the deadline for filing written

1 everybody. Thank you, Commissioner. Thank you  
2 for the opportunity to be here this morning. I  
3 have several comments that I'd like to make  
4 relative to both the rule making proceedings and  
5 also the suggested or proposed rules for the  
6 Commission on implementation of the renewable  
7 energy standard.

8 The three items that I'd like to  
9 address with you this morning pertain to first  
10 and foremost my concern and feelings on a  
11 potential conflict of interest, or shall I say an  
12 apparent conflict of interest between the hired  
13 mediator/facilitator and his role representing  
14 the members of the rule making committee in terms  
15 of the documentation and the proposals that were  
16 made.

17 No. 2 is a concern over the  
18 Commission's lack of response relative to a  
19 memorandum that I had filed in conjunction with  
20 John Farley of Tech-RI regarding the Commission's  
21 place or perhaps lack thereof, and oversight of  
22 the renewable energy development fund; and  
23 lastly, is some comments on cautioning the  
24 Commission relative to proceeding with long-term

1 contracts as proposed relative to Narragansett  
2 Electric's requirements in fulfilling the  
3 renewable energy standard obligations on behalf  
4 of their ratepayers.

5 To start off with the first item, at  
6 the beginning of the rule making proceeding the  
7 group wanted to hire, had a desire to hire a  
8 professional mediator/facilitate, a doctor by the  
9 name of Dr. Jonathan Raab who does this for a  
10 living, and when we had gone around for a vote I  
11 apparently was the only party in the group to  
12 dissent and was not in favor of hiring anyone to  
13 facilitate the matter; and secondly, the  
14 individual that was eventually hired, regardless  
15 of the position that I had taken, was actively  
16 and perhaps still is actively serving at least  
17 one member of that group being the Rhode Island  
18 Renewable Energy Fund as administered by the  
19 Rhode Island State Energy Office.

20 Now, in my profession as a consultant,  
21 typically when you're in a matter between parties  
22 and you represent, i.e., on the payroll of one of  
23 those parties, you typically take a side or you  
24 recuse yourself of the opportunity. In this

1 Grid.

2 In the renewable energy standard there  
3 is really no reference suggesting that there  
4 should be long-term contracts, at least as best I  
5 could find, so the discussion that was brought up  
6 in the rule making committee about long-term  
7 contracts was really something that was brought  
8 up out of the interest of particular groups or  
9 lack of interest perhaps from a particular group  
10 being Narragansett Electric. We had spent quite  
11 a bit of time discussing it. There was quite a  
12 bit of discussion on their position on that, in  
13 particular the renewable energy fund, obviously,  
14 in favor of long-term contracts, Narragansett  
15 Electric, as best I can tell not in favor of  
16 long-term contracts at least past the point of  
17 the standard offer service period in 2009.

18 I for one was not granted as much time  
19 on the committee for my positions and certainly  
20 was not granted the amount of air time in  
21 discussing the concerns I had over certain  
22 matters, so when you put two and two together in  
23 terms of where the dollars flow behind the  
24 individual mediating and facilitating in essence

1 particular circumstance, Mr. Raab's firm was  
2 hired, No. 1. No. 2, it was hired with state  
3 money which is ratepayer money through the  
4 renewable energy development fund or the  
5 renewable energy fund, I'm sorry, and lastly, you  
6 had a member on the rule making committee who  
7 represented that office. In addition, National  
8 Grid, which was a participant to the rule making  
9 committee, is a sponsor of one of Mr. Raab's  
10 forums, they call it the roundtable restructuring  
11 forum. So I found that obviously a little  
12 disappointing and very concerning, because how  
13 can somebody be a "neutral truly unbiased third  
14 party" as they are suggesting in this matter when  
15 they have a couple participants on the committee  
16 that are directly affiliated with the revenue to  
17 his firm. So I find that very troubling.

18 Following up on that is really some  
19 treatment that I thought was unusual in terms of  
20 the proceeding, and I will point out in  
21 particular, or reference in particular  
22 discussions on long-term renewable energy  
23 contracts both from the position of the renewable  
24 energy fund and also the position of National

1 driving the forum discussions for this group as  
2 he was hired to do, and two, a couple of those  
3 members be the payors of those fees and in  
4 essence getting an amount of time and some  
5 treatment throughout the proceeding that was not  
6 equally afforded to other participants questions  
7 at least in my mind the validity of the  
8 documentation and the recommendations that were  
9 issued by this individual and his firm.

10 So I'm going to suggest to the  
11 Commission that the Commission disqualify the  
12 final report issued by the rule making committee  
13 as it was a document drafted by Dr. Raab who is  
14 apparently in a conflict of interest in this  
15 situation.

16 Furthermore, I also want to state that  
17 I had issued an e-mail I believe it was on  
18 August 8th, to the Commission's representative,  
19 Mr. Hartley, suggesting that prior to the  
20 proposed rules or the recommendations of the rule  
21 making committee making it to the Commission that  
22 we withdraw them and basically start from scratch  
23 with a different individual or without the  
24 individual to remove that conflict of interest

1 from potentially hindering the process. There  
 2 was no follow-up to that suggestion meaning there  
 3 was no activity coming out of that other than  
 4 wait until I had the opportunity today to speak  
 5 before the Commission to voice my concern. So  
 6 I'm doing so. And it's a matter that I think is  
 7 very warranted because of the nature of what  
 8 happened, and particularly the documentation that  
 9 you received is in essence drafted by this  
 10 individual. So I hope that you take that under  
 11 consideration and advisement in terms of the  
 12 information that was proposed to you and the  
 13 source that it was proposed from.

14 Secondly, I had issued a memorandum to  
 15 the rule making committee back on June 13th which  
 16 was subsequently added to the documentation  
 17 included in the -- I guess the proposed  
 18 recommendations from the rule making committee to  
 19 the Commission and that memorandum stated a  
 20 strong concern and belief that the Commission  
 21 should have oversight of the renewable energy  
 22 development fund. In particular because it is  
 23 the holding place of ratepayer money and  
 24 substantially a lot of ratepayer money in years

1 to come in the form of alternative compliance  
 2 payments. I am a believer, having been involved  
 3 in the marketplace, particularly the competitive  
 4 energy marketplace since it opened up in Rhode  
 5 Island in '97, '98 that renewable energy will  
 6 require an increasing premium over time based on  
 7 the limitations and the capacity that this region  
 8 currently has and is likely to continue having.  
 9 There's a lot of proposed capacity, but proposed  
 10 capacity and available capacity are two very  
 11 different things, so I'm operating under the  
 12 assumption in the future once we get into the  
 13 effective timeframe of the RES, renewable energy  
 14 standard, in '07 and beyond that these renewable  
 15 energy credits, the renewable energy itself is  
 16 going to require increasing premiums, potentially  
 17 it will.

18 Under this assumption there may be a  
 19 variety and an increase of alternative compliance  
 20 payments which various parties in lieu of their  
 21 ability to actually secure credits or power to  
 22 basically comply with the renewable energy  
 23 standard. If this were to happen, the renewable  
 24 energy development fund will become a very, very

1 rapidly growing and valuable fund. You're  
 2 talking about millions of dollars potentially  
 3 over the timeframe of the life cycle of that  
 4 fund. Because of that, I firmly believe there  
 5 should be some public oversight, some proposal  
 6 wherein the public can have the ability to impact  
 7 how that fund is administered.

8 To the best of my knowledge, the folks  
 9 that are charged with overseeing that fund, which  
 10 is referred to as the fund's board of trustees  
 11 include a representative from the EDC, DOA,  
 12 Department of Administration, and eventually two  
 13 Gubernatorial appointments. Without knowing who  
 14 the Gubernatorial appointments will be, nobody on  
 15 that committee has any experience with renewable  
 16 energy credits or contracting or for that matter  
 17 any contracting for renewable energy as best that  
 18 I can tell. So I'm concerned that the folks that  
 19 are charged with the oversight don't have the  
 20 expertise to do what they're charged with.

21 No. 2, the Economic Development  
 22 Corporation, although it stated that they would  
 23 open up to a public forum the transactions and  
 24 the methodology behind those transactions for

1 using that alternative compliance in the form of  
 2 renewable energy development for long-term  
 3 renewable resources, there is no direct method  
 4 for the public to alter those positions. So  
 5 telling people what you're doing with money and  
 6 the public's ability to comment on that are two  
 7 distinct things. I don't think comments alone  
 8 will dissuade the Economic Development  
 9 Corporation from what they want to do with the  
 10 funds.

11 So there's a couple of issues here in  
 12 terms of, No. 1, a fund that will potentially  
 13 house a great deal of ratepayer funds, a great  
 14 deal of ratepayer funds, and No. 2, oversights  
 15 that are limited at best and lacks a great deal  
 16 of expertise in terms of how to administer those  
 17 funds because they've never had to do something  
 18 like this before. Out of fairness to the board  
 19 of trustees, this is a learning curve and I for  
 20 one would not be comfortable with my own personal  
 21 ratepayer money being under the discretion of  
 22 somebody who doesn't know how to do it on my dime  
 23 and I will say that to Narragansett Electric.

24 COMMISSIONER HOLBROOK: Do you have any

1 specific thoughts, Mr. Grasso, with respect to  
2 how you would modify what's been put into the  
3 draft on both of these issues?

4 MR. GRASSO: I do. The recommendation  
5 that I would suggest is for the Public Utilities  
6 Commission to have at least a public hearing  
7 process wherein the public has the ability to  
8 listen, understand what is being proposed with  
9 the funds and the allocation of the funds and  
10 also, and more importantly, the ability to  
11 intervene to some degree to alter perhaps if  
12 deemed necessary. If it's done adequately, then  
13 there won't be a need to alter things. But I'm a  
14 firm believer that the public should have  
15 transparency to the matter and to act on it.  
16 Exactly how that makes that into the regulations,  
17 I don't know that yet. If the Commission is open  
18 to that suggestion, I'll be more than happy to  
19 furnish the Commission with some suggestions as  
20 to how to roll that out, but I'm a firm believer  
21 that you can't risk millions of dollars of  
22 ratepayer funds through a board of trustees that  
23 has no experience in administering it.

24 Okay. Secondly, I think there is a

1 precedent in terms of the Commission's ability to  
2 oversee or to regulate such funds, and I would  
3 point to the conservation fund collected by  
4 Narragansett Electric. Now, Narragansett  
5 Electric, being an investor-owned utility  
6 obviously falls under the jurisdiction of the  
7 Commission, it's very cut and dry, whereas the  
8 Economic Development Corporation does not.  
9 However, it is ratepayer funds. They're  
10 overseeing money and it's not really the Economic  
11 Development Corp., it is this board of trustees  
12 that are overseeing the money. So I would  
13 suggest that it would not be unprecedented for  
14 the Commission to take jurisdiction over  
15 ratepayer funds regardless of where they are  
16 because that's what you do for a living and that  
17 is you oversee ratepayer funds and how they're  
18 spent through the public utilities. In this case  
19 it's a little different because we've never dealt  
20 with renewable energy before and the General  
21 Assembly saw fit to put money through this  
22 fashion. Regardless, it is ratepayer funds, call  
23 it whatever you want, but it is ratepayer money  
24 that goes to energy suppliers that turn to

1 alternative compliance that go back but that  
2 money is ratepayer money. It's -- for lack of a  
3 better word, it's laundered ratepayer money.  
4 It's gone through several different parties to go  
5 back to the Economic Development Corporation red  
6 fund. So I think it's very critical for the  
7 Commission to consider that because you could be  
8 looking at millions and millions of dollars that  
9 could be misspent, or at least not allocated in  
10 the best sense.

11 That leads me to my third comment which  
12 is how that money is spent, and seemingly the  
13 theme of the day here at least through the term  
14 of the rule making committee was long-term  
15 contracts, buy long-term contracts -- it will be  
16 more cost effective to buy long term than wait.  
17 Having been in the energy industry for the past  
18 decade, particularly involved with electricity on  
19 a retail basis for the past I would say now nine  
20 years, eight years since the Restructuring Act  
21 was implemented in Rhode Island there are various  
22 risks associated with buying these contracts,  
23 whether it's renewable energy, renewable energy  
24 credits, whatever you want to call them, or even

1 flat old fossil fuel power. The trade-off is  
2 that, No. 1, any time you look at a long-term  
3 contract there is a risk of market time flat out.  
4 If you're going to buy a position for the next  
5 three years today or five years or the next  
6 20 years, you are running or assuming a risk that  
7 you are buying in an economic market today for  
8 that future period and the economics of that  
9 decision are determined at the end of the period  
10 because you don't know what the prevailing market  
11 is until the end of the period. So there's an  
12 inherent risk with buying forward, as we say in  
13 the business, and that risk is market timing. I  
14 don't believe it is right for ratepayer funds to  
15 be buying at risk.

16 Narragansett Electric's procurement of  
17 last resort service, they go forward -- because  
18 it truly isn't a market based rate, if it is  
19 truly a market based rate, and the only true  
20 marketplace is the hour markets, wholesale hourly  
21 markets which are transparent, publicly open  
22 available markets. When you get into forward  
23 markets, that is an over-the-counter party. It  
24 is private party. It is getting a price from

1 somebody via e-mail. There is no transparent  
 2 marketplace for a consumer to go point to and  
 3 say -- on any given day and say this is a fair  
 4 price, it is an over-the-counter market. So  
 5 there is very little transparency in back of the  
 6 price that is being offered or the validity of  
 7 that price relative to a price point basis how  
 8 competitive it is in the marketplace. So you're  
 9 getting into an area of the marketplace which is  
 10 what we refer to as a gray market. It's not cut  
 11 and dry. It's whose offering what. And that is  
 12 very dangerous in terms of, you know, not having  
 13 oversight because now it is up to the discretion  
 14 of the board of trustees to make a decision who  
 15 has the best over-the-counter offer and there are  
 16 a lot of details outside of price when you're  
 17 buying, particularly renewable energy because of  
 18 the various forms of renewable energy and how  
 19 those forms of renewable energy satisfy the  
 20 renewable energy standard.

21 So it's not a pure commodity process.  
 22 It's not an apple to apples process where you can  
 23 compare things very easy. And lastly, you're  
 24 looking at a gray marketplace with very little

1 transparency for the public to take a look at in  
 2 back of the transaction.

3 Secondly, long-term contracts have a  
 4 habit of offering the awarded supplier or  
 5 suppliers market power, and I'll give you an  
 6 example of this. If a supplier or several  
 7 suppliers, a handful of suppliers satisfy the  
 8 entire marketplace's demand on a long-term basis,  
 9 that in fact locks out additional parties from  
 10 coming in during the term of that long-term  
 11 contract and competing for the business. The  
 12 contract, the positions are already awarded,  
 13 nobody else can get the business, and that is a  
 14 very dangerous situation because it doesn't keep  
 15 parties in check. That's a bit of a true market  
 16 based rate. Market based rates are based on open  
 17 markets, transparent markets. It's very easy to  
 18 check and substantiate the validity and  
 19 competitiveness of an offer and the quality of an  
 20 offer for that fact because if somebody bids in a  
 21 number that's below the market, that's obviously  
 22 something to worry about and you can take a look  
 23 at, just as it is if somebody is far above it.  
 24 Well, there is no market for people to base that

1 benchmark on.

2 So I don't think it's in the  
 3 Commission's interest, I don't think it's in the  
 4 interest of the renewable energy standard to lock  
 5 out market competition for extended periods of  
 6 time, okay, because then the public does not have  
 7 the ability of the competitive marketplace doing  
 8 what it's supposed to be doing and you see it to  
 9 some extent right now with the standard offer.

10 Standard offer is based on a below  
 11 market legislative rate with adjustments that  
 12 have ironically been below the comparative market  
 13 at any point in time. So in a sense the standard  
 14 offer supplier service has effectively locked out  
 15 fairly on a true market based rate basis  
 16 competition.

17 The only people that are willing to  
 18 leave a standard offer in effect are people  
 19 willing to go long, to get away and take a chance  
 20 on market timing that their price will be more  
 21 economic over time. In a rising market  
 22 condition, as we've had over the past two to  
 23 three years, it's very easy to think and believe  
 24 and substantiate that forward positions in the

1 market on any product will be more economic  
 2 because the market continues up; you're locking  
 3 in now into the future. The fact of the matter  
 4 is markets go up and down.

5 We're in an unprecedented period right  
 6 now of increase because of the fuels associated  
 7 with the generation of power in natural gas and  
 8 oil. So there is no guarantee that locking into  
 9 a rate today will be the best rate for that  
 10 10-year period, 15-year period, 20-year period,  
 11 5-year period, whatever it is. There is a risk  
 12 and the longer term that forward contract is  
 13 purchased for, the greater the risks. You have  
 14 one chance in X amount of days across that period  
 15 to be right in essence. So there's a lot of  
 16 undue risk, No. 1. No. 2, I'm concerned that it  
 17 will lock out the competitive marketplace for the  
 18 term of this long-term contract and both of those  
 19 basically come back again to what is a market  
 20 based rate, and I believe it's in the  
 21 Commission's interest and the RES's best to have  
 22 a market based rate because of the reasons of  
 23 transparency I alluded to earlier. A market  
 24 based rate is a rate based on an open market.

1 Over-the-counter products have a separate  
 2 marketplace. There's no way for a consumer,  
 3 whether I as a residential ratepayer or as a  
 4 business owner as a ratepayer, for me to see a  
 5 contract be put into place by any party and be  
 6 able to verify that that is a fair number. There  
 7 is no way of doing it unless I held my own bid  
 8 with the same requirements on the same day and  
 9 went to all the same parties which is not  
 10 realistic for the public to do. So in the name  
 11 of offering additional transparency behind the  
 12 RES, it should be basing the rate structures on a  
 13 true open marketplace such as the New York  
 14 Mercantile futures, whether that's electricity,  
 15 natural gas, fuel oil, whatever it is, it is an  
 16 open marketplace and it's fully transparent, and  
 17 it is not run by two or three parties making an  
 18 over-the-counter offer. Again, if you're in an  
 19 over-the-counter market, people who drive that  
 20 market are the two, three, four, five, seven  
 21 parties that are participating in the open market  
 22 or that over-the-counter market rather.

23 When you look at open mark, you have  
 24 parties all over the place and that's what keeps

1 the price in a true sense. There is no collusive  
 2 action, there's no way of working around the  
 3 marketplace or altering the market in that sense,  
 4 and I'm not suggesting that that is what will  
 5 happen, but it is a possibility on an  
 6 over-the-counter marketplace.

7 Just as you see now with competitive  
 8 supplier pricing, in the State of Rhode Island  
 9 you have actively offered power prices at any  
 10 given time I'll tell you two, three, maybe four  
 11 suppliers for competitive generation service.  
 12 Those suppliers dictate the price point to a  
 13 certain degree, the market based rates, but  
 14 there's profit, the terms and cost of service  
 15 that are added on, there's not much competition.  
 16 You have to have competition to have a truly  
 17 competitive marketplace. So those are my  
 18 concerns relative to the long-term contracting.  
 19 Although it sounds nice in theory and could  
 20 potentially be more economic, as has been  
 21 legitimately shown for the last two or three  
 22 years, if you lock in at the right time, if you  
 23 time the market right, you can't come up with a  
 24 more economic product over time, but it's a big

1 if and that if is ultimately a guess because  
 2 there is no way to guarantee the future outcome  
 3 of the position whether that be renewable energy  
 4 or if it's traditional energy.

5 The last item I want to reference is  
 6 apparently a memorandum that was issued from the  
 7 Commission's counsel on September 21st regarding  
 8 our memo on the position that we have concerning  
 9 oversight, the Commission's oversight of the red  
 10 fund. And there are a couple of items here that  
 11 I need to clarify because I don't believe they're  
 12 accurate. Apparently, counsel recommended or I  
 13 shouldn't say recommended, advised the Commission  
 14 that the concern that we had on oversight of the  
 15 fund related to the General Assembly "scooping  
 16 up" the fund to plug budget holes as they did  
 17 with renewable energy. I'm assuming she's  
 18 referring to the renewable energy fund  
 19 administered by the State of Rhode Island  
 20 Economic Development Corporation.

21 MS. WILSON-FRIAS: If I could  
 22 interrupt. That was not related to Tech-RI and  
 23 Silent Sherpa. That was an issue that I raised  
 24 at the tech session which the Commission held so

1 I would just like to clarify that for the record.  
 2 MR. GRASSO: Thank you. It's in the  
 3 same paragraph with Tech-RI and Silent Sherpa, so  
 4 I assumed there was a relationship there, but  
 5 that's my mistake. Regardless of whether that  
 6 had nothing to do with our concern, the  
 7 memorandum and the request that we had was never  
 8 addressed by the Commission in the recommended  
 9 rules. Okay? I found that interesting. And I  
 10 don't know why that was not addressed at all  
 11 because it obviously pertains to ratepayer funds  
 12 and it pertains to potentially a lot of ratepayer  
 13 funds and the position again that we have is not  
 14 with oversight or your oversight as a Commission  
 15 of the Economic Development Corporation, that's  
 16 clear you do not have that ability, that  
 17 jurisdiction, however, it is absolutely not clear  
 18 in the renewable energy standard if you do or  
 19 don't have jurisdiction over the fund associated  
 20 with this process in the form of the renewable  
 21 energy development fund. The renewable energy  
 22 standard is very ambiguous, and basically implies  
 23 or states that you have oversight and you  
 24 implement rules around the use of funds for

1 renewable energy resources. While use of  
 2 alternative compliance payments obviously going  
 3 through renewable energy resources should and  
 4 certainly would allow you the ability to want  
 5 some jurisdiction on that. I just want it to be  
 6 clear that what we are seeking in this particular  
 7 concern is not to do with the Economic  
 8 Development Corporation as an entity, it has to  
 9 do with the fund that's sitting within that  
 10 Economic Development Corporation and this  
 11 particular memo made no reference to that and I  
 12 was of the impression, and I apologize if I was  
 13 wrong on that impression, that this particular  
 14 memorandum led or was directly related to the  
 15 Commission's not responding to the memo that was  
 16 issued and included in the documentation  
 17 furnished to you out of the rule making  
 18 committee.

19 So those are my three concerns and  
 20 obviously the Commission's consideration of those  
 21 concerns and hopefully some action on those  
 22 concerns would be greatly appreciated.

23 COMMISSIONER HOLBROOK: Mr. Grasso, you  
 24 pointed out the pitfalls of long-term contracts.

1 Would I understand that you -- you're not  
 2 suggesting that they be -- or you are suggesting  
 3 that they be avoided, that they not be optional  
 4 or that they be required or what is your specific  
 5 position on it?

6 MR. GRASSO: I think long-term  
 7 contracts should be the option pending the money  
 8 on the long-term contract. It's a valid tool,  
 9 it's a valid position in the marketplace and  
 10 people take them all the time just as they do to  
 11 not taking them and staying short in the  
 12 marketplace and cost averaging across the market  
 13 to assure against market timing just as you do  
 14 with finances, for instance. I just don't think  
 15 it is appropriate for aggregate ratepayer funds  
 16 to be discretionally allocated on what is a very,  
 17 and I will tell you the most risky position in  
 18 the market. Statistically locking into a forward  
 19 position is the most risky position you could  
 20 take because if you lock in on a one-year deal,  
 21 you have a 1 in 365 chance that that is the most  
 22 economic deal. If you're doing two years, three  
 23 years, you just multiply it by the number of  
 24 days, the denominator gets bigger, the

1 probability goes down that you're locking in at  
 2 the right time. I don't think it's the  
 3 responsibility of either a utility, investor  
 4 owned utility to spend money or any public body  
 5 to spend ratepayer money guessing because that in  
 6 essence is what it is.

7 Some people can suggest there's  
 8 sciences behind it, there's some probability and  
 9 statistics you can use, but at the end of the day  
 10 unless you can accurately identify the outcome of  
 11 events with human behavior because human behavior  
 12 drives the marketplace, you have no fool proof  
 13 method that the position you're taking is the  
 14 best position economically, or No. 2, in the best  
 15 interest of ratepayers who are funding this.

16 There's just a strong disconnect right  
 17 now between the people financing the effort and  
 18 the people spending the money. There is no  
 19 connection and there is no oversight in place and  
 20 I really pushed strongly in the rule making  
 21 committee to get this. The problem is the rule  
 22 making committee was overwhelmingly participated  
 23 by people with interests in the renewable energy  
 24 market, whether they were buyers or sellers of

1 that renewable energy. So myself, I believe  
 2 Tech-RI and the Division were the only two  
 3 parties to the best of my knowledge interested in  
 4 ratepayers and my position, I represent  
 5 commercial, industrial ratepayers. And that was  
 6 just not accepted. The rule making committee  
 7 didn't want to hear it, wanted to take the focus  
 8 away from the Commission's oversight of a fund of  
 9 money and turn it into the Commission's oversight  
 10 of a body that you had no right overseeing which  
 11 is correct, but it's a mismanagement of focus.  
 12 Again, the distinction I'm drawing here is the  
 13 ratepayer funds being held in a particular  
 14 account that's overseen by this board of  
 15 trustees. It's ratepayer money and to the best  
 16 of my knowledge that's the position of both the  
 17 utility and the Division. The Division has  
 18 absolutely sat down on this matter which I find  
 19 incredibly outstanding. I can't imagine that the  
 20 Commission even -- I mean, the Division even  
 21 after I brought this to the forefront did not  
 22 step in and weigh in some judgment on this.  
 23 We're talking about millions of dollars  
 24 potentially that could be put into this pot.



1 Okay? So that's a separate issue.  
 2 I can certainly bring it up and I know  
 3 it was also communicated via some e-mail  
 4 communications that were added to the  
 5 documentation that you were furnished. I as a  
 6 ratepayer, I as a consultant or advisor to  
 7 ratepayers who pay some of the most money in  
 8 terms of budgets for energy and contributions for  
 9 the purchase of energy supply in the state, I  
 10 find that ridiculous, and I can't understand how  
 11 the Division could see that and not want to take  
 12 a position on it. So that's a separate matter  
 13 perhaps. Perhaps it's not -- perhaps it should  
 14 be taken under consideration in this proceeding.

15 Either way, there's that disconnect and  
 16 the higher risk you run on these forward  
 17 contracts without, without the public being able  
 18 to come in and say that 10-year deal, that  
 19 15-year deal that you want to do with Party X or  
 20 Party Y is not in our best interest. Right now  
 21 that avenue does not exist. The Economic Develop  
 22 Corp. could hold a meeting and tell everybody  
 23 they're going with a 15-year deal, everybody  
 24 could stand up and say this is wrong, but at the

1 end of day there's nothing legally to make them  
 2 change that position other than their interest,  
 3 and being a Rhode Islander for the last 33 years  
 4 of my life, this doesn't happen. Okay? It just  
 5 doesn't happen. So be realistic about what will  
 6 come, despite what folks are going to tell you,  
 7 and I just want to make clear, you know, with  
 8 respect to the memorandum that alluded to our  
 9 position as No. 1, not being justified by the  
 10 Commission because you don't have oversight of  
 11 another body. Again, the issue is not oversight  
 12 of the Economic Development Corp., the issue is  
 13 oversight of ratepayer funds that are flowing to  
 14 energy suppliers that are then flowing back into  
 15 the state coffers for use for renewable energy  
 16 resources and there is a big difference between  
 17 applying those funds on renewable energy  
 18 certificates, renewable energy itself. Again,  
 19 renewable energy certificates are not renewable  
 20 energy, they're endorsements of renewable energy  
 21 at the end of day. Renewable energy is renewable  
 22 energy. You buy wind, biomass, whatever it is  
 23 you're buying, and again, I don't believe that  
 24 this board has the understanding, has the

1 expertise to identify the differences, the  
 2 risk/rewards identified with either or and how,  
 3 quite frankly, to purchase them because there are  
 4 methodologies to appropriately purchase both  
 5 renewable energy and the corresponding  
 6 certificates that accompany them or don't because  
 7 it's an option whenever you buy it.

8 So I would suggest again that the  
 9 long-term contract is the highest risk. Sticking  
 10 to the market doesn't guarantee you an outcome,  
 11 obviously, just like going forward doesn't  
 12 guarantee you the economic outcome, however, when  
 13 you stick to the market and shorter positions  
 14 you're sticking to the market and it's a  
 15 transparent market so that is a huge, huge  
 16 benefit for the public.

17 COMMISSIONER HOLBROOK: Is it basically  
 18 a trade-off between stability offered by  
 19 long-term contract versus the volatility you find  
 20 in the short-term market?

21 MR. GRASSO: There is -- the stability  
 22 of pricing is obviously a benefit of forward  
 23 contracting. There's no way around that. It is  
 24 a benefit. As a professional, I would tell

1 people of both, the risks and rewards involved in  
 2 going long or staying short in the market,  
 3 staying on a variable rate, so to speak.

4 The problem is going forward is just  
 5 not a transparent marketplace, it's an  
 6 over-the-counter marketplace because it's  
 7 illiquid; there's not enough players on a  
 8 day-to-day basis to go out there and cut  
 9 transactions to justify an open market like you  
 10 have with the futures market where there are bid  
 11 on situations every second of every day of every  
 12 year. Certainly it's incorporated into a  
 13 portfolio.

14 If I were advising somebody on how to  
 15 manage a portfolio, fixed positions would be part  
 16 of that, they would not be all of that unless the  
 17 consumer spending those funds is 100 percent  
 18 aware of the risks that they're taking, just as  
 19 they should be aware of the volatility of the  
 20 market if they stay short and they do take that  
 21 position.

22 Ratepayers are not under the current  
 23 scenario, one, given the option to tell people  
 24 this is where we want our money, and two, even if

1 they are given the option, that feedback cannot  
2 necessarily be required to change the direction  
3 of the outcome of events. To me, you can't allow  
4 that. That's not appropriate for use of public  
5 funds.

6 So it is absolutely unclear because I  
7 don't think we've had a situation relative to  
8 this marketplace where you've had to reserve  
9 funds for renewable energy certificates or  
10 renewable energy and to satisfy the renewable  
11 energy standard. This is the first renewable  
12 energy standard the state has ever had and for  
13 that matter it's one of few renewable energy  
14 standards in the U. S. You have to be conscious  
15 of the fact that you don't want people to learn  
16 on millions of dollars of ratepayer funds, it's  
17 just not the place to learn, and that's why I  
18 bring the point up and recommend your  
19 consideration on the risks inherent in the  
20 long-term contracts.

21 There's several reasons. One of which,  
22 again, the risk, two, market power, people that  
23 lock up long-term contracts, they're in the  
24 market, they've got a place to put their

1 requirements, they're guaranteed a home. The  
2 other guy that wants to come into the marketplace  
3 can't come in because somebody has already  
4 satisfied the demand of the marketplace. That's  
5 unconscionable. I don't see how that can be  
6 allowed in a "competitive" environment. There  
7 needs to be some discretion, obviously, relative  
8 to the competitive marketplace as it stands today  
9 and a melding into those requirements, renewable  
10 energy, which at the end of the day is energy.

11 So I see no reason why it should not be subject  
12 to the same approach as traditional fossil fuel  
13 power plants that deliver energy and that energy  
14 is sold into the marketplace. It's just another  
15 component of energy at the end of day with some  
16 different requirements.

17 COMMISSIONER HOLBROOK: Maybe on a  
18 different matter but yet related to it, in your  
19 judgment are there adequate safeguards to ensure  
20 that the value of the renewable energy  
21 certificate that eventually winds itself into the  
22 cost of electricity, are there adequate  
23 safeguards there to protect ratepayers against  
24 any activity of speculators or people who would

1 game or manipulate the market?

2 MR. GRASSO: That's the alternative  
3 compliance payment.

4 COMMISSIONER HOLBROOK: Pay the \$50?

5 MR. GRASSO: That's the benchmark, so  
6 to speak, and you already see it in other states.  
7 If a supplier cannot go out and secure the  
8 requirements for the state's standard, they'll  
9 pay the alternative compliance payment. A lot of  
10 times people pay the alternative compliance  
11 payment because it's cheaper. The purpose of  
12 that compliance payment is two-fold; one, to give  
13 people an alternative for the solution, and  
14 second, to keep the market in check, in essence,  
15 assuming that ACP is reasonable. What is  
16 reasonable? So therein lies the problem that I'm  
17 suggesting.

18 You're not dealing with an open market  
19 that you can log onto the internet and see what  
20 it's trading at today. This is over-the-counter  
21 stuff. So there's a strong consideration that  
22 needs to be given to the fact that people are  
23 using discretion. Ultimately, you can't support  
24 the requirements that the renewable energy

1 development fund has without having out "some  
2 discretion". So you have human judgment and in  
3 back of human judgment comes, one, expertise in  
4 transacting. They have none, and I highly doubt  
5 that the Governor is going to be able to find  
6 two. He doesn't have any expertise, that was  
7 clearly indicated a few weeks ago when he came in  
8 here and begged for forgiveness for rate relief  
9 which he had no right to do and had no  
10 substantiation for it. There is no expertise at  
11 the state level in these matters. I know that  
12 first hand. The state hasn't participated in its  
13 own Restructuring Act for its own state's  
14 requirements for power procurement. It was the  
15 first state to pass the Restructuring Act and  
16 they still have not purchased a kwh of  
17 competitive power while energy costs have gone  
18 through the roof. The state does not have the  
19 expertise. Be aware of that fact and be aware  
20 that this is very much going to be a state run  
21 budget in essence. And the state already runs a  
22 lot of money. This is money I would suggest  
23 should not be run by the state at least without  
24 oversight by the public, oversight of the public

1 itself who have some expertise in the matter and  
2 can come in and suggest better methods, if  
3 necessary.

4           If the red fund were administered 100  
5 percent properly and efficiently, that's great.  
6 I'm not going to be the guy to come in nor do I  
7 suppose anyone else would come in and try to  
8 alter that. If it isn't, you should have that  
9 ability for the public or some professionals to  
10 come in on the public's behalf and suggest some  
11 better ways of doing that and enforce that  
12 because that avenue is not there.

13           The question on the ACP, that is in  
14 essence the true up. In an open marketplace you  
15 can't -- again, do you want to regulate? If it's  
16 regulated, it's not a competitive market so you  
17 can't have it both ways. The ACP is some sort of  
18 regulation on the unregulated portion of the  
19 market, but this ACP could change as any law  
20 could change. It could be manipulated in the  
21 future which is a concern. If people decide that  
22 they can sell renewable energy at a couple bucks  
23 per megawatt hour than the existing ACP, perhaps  
24 the General Assembly gets lobbied and moves that

1 ACP up just enough to get people to move in  
2 underneath it. So there are a lot of things that  
3 can happen to alter the existing structure, but  
4 at the end of the day that's the only way if it's  
5 very, very untransparent. There no transparency  
6 to doing it.

7           I don't know what other safeguards you  
8 want to put in to control the market, otherwise,  
9 it would be regulated. That's why I'm suggesting  
10 to have oversight of the process. Don't dictate  
11 the market, let the market do what the market  
12 will do to respond, to garner investment, to  
13 build renewable generation and so forth, but at  
14 least have a safeguard that if this market is not  
15 flowing the way it's intended, you have the  
16 ability or the public has the ability to come in  
17 and alter that. I think that's 100 percent  
18 critical. It is absolutely 100 percent critical  
19 and that concern stems back starting with the  
20 rule making committee's structure, the rule  
21 making committee's makeup of the parties in  
22 interest. There was very, very low percentage  
23 wise, very low percentage wise ratepayer interest  
24 involved in that rule making committee, very,

1 very low. Overwhelming supply side, seller  
2 interest was in that committee and they're doing  
3 their job. I don't have a problem with sellers  
4 taking a position and pushing that position. I  
5 have a problem when the facilitator doesn't offer  
6 equilibrium to the different parties because he's  
7 getting paid by one of them and sponsorship money  
8 from another. The rule making committee doesn't  
9 want to hear it because it's not in their  
10 interest. I think that's wrong and you're  
11 getting filtered information from that  
12 documentation that shows weighted interest of the  
13 selling community not by the ratepayers. It's  
14 very, very weighted in that fashion.

15           COMMISSIONER HOLBROOK: Did you  
16 recommend earlier that the Commission not accept  
17 the draft report because of your concerns?

18           MR. GRASSO: I recommended in my  
19 e-mail, I believe it was on August 8th,  
20 August 8th, 2005 to Mr. Hartley that -- and this  
21 was a recommendation to Mr. Hartley -- that Mr.  
22 Raab be removed from his role and that the  
23 proposed regulations and rules in essence that we  
24 were proposing as a committee be pulled back. I

1 missed the target date for furnishing those to  
2 the Commission because there was a bigger issue  
3 at stake. There was an obvious, obvious conflict  
4 of interest here, factual conflict of interest of  
5 running this committee.

6           COMMISSIONER HOLBROOK: So your  
7 suggestion would be to have the Commission not  
8 accept the report, to replace the facilitator and  
9 then reconvene the committee to continue its work  
10 and complete it?

11           MR. GRASSO: I'm suggesting that the  
12 Commission disqualify the report that was  
13 furnished to you. Past that point I haven't made  
14 any suggestions, whether it's hire somebody else  
15 to be a facilitator. Personally, I don't think a  
16 facilitator is necessary. I don't think a  
17 facilitator is necessary on a 14, 15-member  
18 committee. I just don't see it being necessary  
19 with the type of intelligence that's on the  
20 committee.

21           So whether you hire somebody to  
22 administer the process again or just have the  
23 committee reconvene and come up with rules again,  
24 I'd rather go that route and push this process

1 back a couple of months, okay, than to accept a  
 2 conflict of interest party and his approach or  
 3 his recommendations based on a very biased  
 4 committee. Because more people from the seller  
 5 side participated on the committee than consumer  
 6 interests doesn't give them a right to have more  
 7 of a weight in terms of the voice that they're  
 8 communicating than the consumer. I think that's  
 9 clearly the responsibility of the Commission to  
 10 consider this. The Division's -- that's the  
 11 Division's responsibility. They sat quiet. So I  
 12 guess I'm looking to the Commission to pick up  
 13 the slack on where the Division was not adequate  
 14 in stepping up for the ratepayer.

15 MS. WILSON-FRIAS: Mr. Grasso, don't  
 16 you represent a certain level of ratepayers?

17 MR. GRASSO: I do.

18 MS. WILSON-FRIAS: And how many  
 19 meetings did you attend?

20 MR. GRASSO: Two or three probably.

21 MS. WILSON-FRIAS: And --

22 MR. GRASSO: What does the attendance  
 23 at the meetings have to do with my position?

24 MS. WILSON-FRIAS: I'm just curious if

1 you said there weren't enough ratepayers being  
 2 represented at the table why you chose not to go  
 3 to the meetings.

4 MR. GRASSO: Because I am paid by  
 5 ratepayers to get a return on their investment  
 6 and when I'm not getting a return on their  
 7 investments and what they're paying me for on the  
 8 committee, I manage energy contracts for them  
 9 which you may or may not realize that that is a  
 10 very time-consuming job at this point given the  
 11 volatility in the market, so it's clearly what  
 12 I'm paid for by my clients.

13 MS. WILSON-FRIAS: With regard to the  
 14 rules as proposed by the Commission which are not  
 15 word for word what was in the report by the  
 16 group, what are your -- your two concerns with  
 17 those rules as proposed are the oversight of the  
 18 development fund and long-term contracts?

19 MR. GRASSO: Those are the two issues  
 20 within the renewable energy standard itself and  
 21 then there's the procedural issue.

22 MS. WILSON-FRIAS: I'm asking you about  
 23 the rules that were proposed, just the rules that  
 24 were proposed. Those are your two concerns?

1 MR. GRASSO: Those are the two topics  
 2 and concerns, correct.

3 MS. WILSON-FRIAS: Okay. And could you  
 4 just explain to me, I think you started to, but  
 5 what is Silent Sherpa?

6 MR. GRASSO: Silent Sherpa Energy  
 7 Consulting Services is my consulting services  
 8 group. I'm the President. We inform consumers,  
 9 commercial and industrial. By and large we do  
 10 not do residential and we advise commercial and  
 11 industrial consumers in Southern New England,  
 12 very heavily in Rhode Island and we advise them  
 13 on management of their energy supply and this  
 14 involves advice on markets, retail competitive  
 15 markets, wholesale energy markets, two,  
 16 procurement of power to satisfy their  
 17 requirements in those contract options, are those  
 18 economic means to fulfill their objectives on a  
 19 budget basis, and lastly, to audit the  
 20 performance of those contracts relative to what's  
 21 been promised in the contract. So those are the  
 22 three focusses that we have.

23 MS. WILSON-FRIAS: Okay. And it's your  
 24 position that these -- and I just want to make

1 sure I'm not misstating what I heard you say,  
 2 that the standard offer pricing has been below  
 3 market.

4 MR. GRASSO: The standard offer pricing  
 5 has, in fact, been below prevailing market at the  
 6 time it's been in effect, that is correct.

7 MS. WILSON-FRIAS: Right now it's still  
 8 below market?

9 MR. GRASSO: Far below prevailing  
 10 market.

11 MS. WILSON-FRIAS: How far below?

12 MR. GRASSO: Right now the recent  
 13 standard was passed at 8.2 cents. Prevailing  
 14 market, and again, depending upon the term of the  
 15 forward market you have a different price.  
 16 Typically on the retail contract you can go out  
 17 as far as five years and as short as a month.  
 18 The shorter you go, for instance, if you were  
 19 looking at a forward year, the one-year price  
 20 right now for average commercial what I would  
 21 note as an average commercial is a G-2 rate  
 22 class, you'd probably be looking at something in  
 23 the vicinity of 11 to 12 cents per kwh, the  
 24 generation component of your bill. So to answer

1 your question, you're anywhere from three to four  
2 cents. Obviously, that changes everyday. The  
3 future is changing. That's how far below the  
4 prevailing market it is as we sit here today.

5 MS. WILSON-FRIAS: I know that you said  
6 you don't do residential, but do you keep track  
7 of the residential market? Is it similar or do  
8 you not know.

9 MR. GRASSO: I keep track of it in the  
10 way that I pay my bill every month. The  
11 residential is the same as commercial except for  
12 the service fees. The residential load as the  
13 same profile just like a G-2 with National Grid.  
14 The problem is that it's a much smaller amount of  
15 kwh billed, so the bottom line dollars are not  
16 there, and therefore, the service piece per kwh  
17 has to increase to substantiate the cost of  
18 service from a marketer or nonregulated power  
19 producer as they're called here in Rhode Island.  
20 So the actual power component is relatively  
21 similar, however, the service fee that's placed  
22 on top of that is much higher and you see this up  
23 in Massachusetts, for instance. And that fee for  
24 your average commercial/industrial adder on a

1 unchartered waters, there's no model that  
2 typifies or represents other people in our  
3 position having gone through the process and  
4 setting up rules that appear to work or that can  
5 be critiqued and improved on or is this all so  
6 new that we kind of do the best we can because we  
7 have no reference point?

8 MR. GRASSO: I asked the same question  
9 I think it was the first or the second meeting I  
10 was at in the renewable energy -- the rule making  
11 committee and the answer because, again, my  
12 expertise is in retail procurement, so I'm an  
13 expert insofar as exploring the purchasing  
14 options on behalf of clients that are seeking  
15 renewable energy. There are green consultants,  
16 renewable energy consultants, so I had posed the  
17 question to many folks on the committee that had  
18 a greater degree of knowledge in those particular  
19 marketplaces relative to the U. S., and the  
20 answer was there really isn't. Massachusetts has  
21 a standard that's the closest and I think that's  
22 what a lot of folks were using as kind of a  
23 benchmark in terms of how we go forward and make  
24 recommendations as a committee also out of

1 retail contract is anywhere from two to three  
2 mills per kwh that is what you will find.  
3 Typically very, very large industrial loads will  
4 command a smaller premium. Smaller commercial  
5 accounts may require a higher premium. When you  
6 get at residential if you're looking at cent plus  
7 in terms of fees that need to be garnered per kwh  
8 to justify the payment and that's obviously a  
9 problem. There are things that can be  
10 implemented to overcome that, obviously,  
11 associated with aggregation. There's a law in  
12 the State of Rhode Island that allows cities and  
13 town to aggregate. On a household-by-household  
14 basis your market price is the same, the service  
15 fees are much, much different and that's the  
16 primary difference.

17 MS. WILSON-FRIAS: Thanks. I know I  
18 went a little off the topic, but about I was  
19 curious to get another position.

20 COMMISSIONER HOLBROOK: Mr. Grasso, I  
21 have only one more question and that is with  
22 respect to what we're doing now dealing with the  
23 rules for renewable energy is all of this on a  
24 national basis is really forging? Are we in the

1 consideration to keep these things on a level  
2 playing field.

3 So we're -- we don't have a totally  
4 different structure in Rhode Island as they do in  
5 Massachusetts which I don't think is a valid  
6 reason because I think different states and  
7 different jurisdictions should do what's best for  
8 the ratepayers in that jurisdiction. I don't  
9 believe there's a wealth of experience any other  
10 state has, No. 1. No. 2, renewable energy is a  
11 regional capacity issue. What California does  
12 for wind generation really has no consequences on  
13 what happens in Rhode Island. You can't  
14 transport power from California to Rhode Island.  
15 So your interested really in the region's  
16 capability of producing renewable energy.

17 And renewable energy resources are  
18 steel in the ground, plants that will generate  
19 power from mother nature. So -- offering  
20 by-products of man, but by and large it's from  
21 mother nature. So buying renewable credits,  
22 renewable credits only go as far as the steel in  
23 the ground. You can't have a REC with a kw  
24 behind it, you're not supposed to, all right, so

1 buying RECs only gets more dangerous if there's  
 2 very limited capacity behind it. There's  
 3 increasing supply -- I mean increasing demands on  
 4 limited supply so that's why I think the focus  
 5 needs to be on the renewable resource itself, the  
 6 steel that's in the ground that's producing  
 7 renewable energy. There is nothing that happens  
 8 anywhere else in the country that will dictate or  
 9 change that realization here in Rhode Island or  
 10 New England or in the Northeast for that fact.

11 COMMISSIONER HOLBROOK: Does that have  
 12 an impact on financing of projects on a regional  
 13 basis where the opportunity for funding may be  
 14 better in one region than in another because of  
 15 the resources?

16 MR. GRASSO: I think resource  
 17 capability has a lot to do with it. For  
 18 instance, in New England you hear a lot about  
 19 solar. On a day like today, which will account  
 20 for a fair amount of days in New England, you're  
 21 not getting much sun today. Solar panels don't  
 22 work as well in these environments as opposed to  
 23 the sun shining all day like they do in the  
 24 desert. The reality of implementing renewable

1 solutions, economic solutions is very limited in  
 2 New England. The problem is if the nation  
 3 doesn't come to terms with that sooner than  
 4 later, they're committed to a law that requires X  
 5 amount of investment every year and there will  
 6 still be this limited amount of valid performing  
 7 renewable generation facilities, which does what?  
 8 Only adds to the premium. That's why the  
 9 suppliers are so heavily in favor of these laws.  
 10 If you can be a supplier to get this wind farm,  
 11 you're in a good position long term because there  
 12 aren't many people to put the wind farm in in an  
 13 area where there isn't very much wind. There are  
 14 very few pockets that you can produce wind that  
 15 can produce efficiencies on the turbines. So the  
 16 overwhelming problem is a regional problem.

17 The location of the world, what assets  
 18 we have or don't have to generate from, and in  
 19 this region, like it or not, it isn't the best  
 20 place in the world. It's not northern Europe.  
 21 It's not California in the desert. It never will  
 22 be. So spending more money on solar isn't going  
 23 to return Rhode Island or any place in Southern  
 24 New England into the desert of the California.

1 COMMISSIONER HOLBROOK: I guess the  
 2 opportunity is that resources presumably have to  
 3 be more in the extreme than average. I mean, you  
 4 have to be in a typically sunny spot or a windy  
 5 spot or a spot served by white water and whatnot  
 6 to benefit.

7 MR. GRASSO: Very limited in New  
 8 England relative to the amount of demand for the  
 9 product. Right now it's a boutique industry.  
 10 This law is not going to keep a boutique  
 11 industry. 16 percent of the power in the State  
 12 of Rhode Island that's big business, that's big  
 13 business and it's big money and it's big money  
 14 that gets exponentially larger if the resources  
 15 are constrained. So there are issues, obviously,  
 16 physical issues, locational issues that  
 17 regardless of what other standards happen or  
 18 haven't happened in other parts of the world or  
 19 other parts of the country there are issues that  
 20 you have to deal with regionally to deal with  
 21 these. That's the balance that everybody I think  
 22 is looking to strike. Don't put the money into  
 23 something that is never going to give you the  
 24 return that you're required by law. It's adding

1 additional premium to the few assets in capacity  
 2 that are in place.

3 I think that's -- it's the opposite  
 4 that we've had with fossil generation. You have  
 5 power plants all over the place, but no power to  
 6 deliver to people. We'd be looking at the  
 7 opposite here with renewable energy potentially.  
 8 Potentially. It's a matter of investment and  
 9 investment follows money. Prices keep going up,  
 10 more people are going to want to come in, but  
 11 what happens if the prices keep going up and  
 12 nobody else can come in because there isn't any  
 13 more renewable energy to produce. There is a  
 14 limited capacity to speak of eventually that  
 15 you're going to hit.

16 COMMISSIONER HOLBROOK: If that  
 17 concludes your comments, Mr. Grasso, I certainly  
 18 appreciate you are coming and I think your  
 19 comments will be very well taken. We appreciate  
 20 them very much.

21 MR. GRASSO: You're welcome.

22 MS. WILSON-FRIAS: Commissioner, while  
 23 he's getting up, if I could just clarify  
 24 something for the record. When the Commission

1 proposes rules, it does so for comments like this  
2 and then when the Commission issues a final  
3 ruling, that's when the Commission writes up a  
4 report responding to all comments so I just  
5 wanted to make that clear for the record.

6 COMMISSIONER HOLBROOK: The next  
7 speaker is Mr. Sakis Asteriadis. I apologize for  
8 the pronunciation. Asteriadis.

9 MR. LUEKER: Mr. Commissioner, before  
10 he begins his comments, could I offer a couple of  
11 corrections for the record?

12 COMMISSIONER HOLBROOK: Sure.

13 MR. LUEKER: With respect to the prior  
14 witness' testimony on the legal position taken by  
15 Silent Sherpa and Tech-RI, those issues were  
16 discussed in some detail in the committee meeting  
17 in mid-August which Mr. Grasso was unable to  
18 attend. The Division did take a position on it  
19 and our position was we disagreed with their  
20 interpretation of the law. We believe that the  
21 renewable energy standards statute set up a  
22 mechanism very similar to that set up for  
23 renewable energy fund, that is, this Commission  
24 act as a gatekeeper to decide how much money and

1 our experience suggests that the statutes and  
2 rules aren't working, well, then, obviously,  
3 under like or similar circumstances we have to go  
4 back and seek some appropriate legislative  
5 relief.

6 COMMISSIONER HOLBROOK: That's right.  
7 Thank you.

8 MR. LUEKER: Thank you.

9 SAKIS ASTERIADIS (Sworn)

10 MR. ASTERIADIS: Sakis Asteriadis,  
11 address is 444 East 82nd, Street, New York, New  
12 York, 10028.

13 MS. WILSON-FRIAS: Spell your last  
14 name, please.

15 MR. ASTERIADIS: A-S-T-E-R-I-A-D-I-S.  
16 Well, thank you for the opportunity of coming  
17 here. I am the program manager for APX. APX is  
18 the administrator of the NEPOOL's GIS system.  
19 And also we are the system provider for the PJM  
20 GATS renewable tracking system. We are  
21 responsible for NEPOOL's GIS. We're responsible  
22 for the day-to-day operations of pretty much the  
23 whole tracking system. We have four staff, both  
24 ecology and administrative portions of the

1 under what circumstances money is collected and  
2 flows to organizations, in the one case it's the  
3 State Energy Office who then manages the funds,  
4 in the other case it would EDC who deals with the  
5 alternative compliance payments, but the  
6 Commission under the way statutes are set up has  
7 no authority to exercise control over those two  
8 separate agencies once the money reaches them.  
9 We've taken that position, we took that position  
10 in the committee meetings at least and I believe  
11 in some of the correspondence that Mr. Grasso  
12 related to.

13 COMMISSIONER HOLBROOK: Did the  
14 committee have a conversation with respect to  
15 checking the status quo so that the Commission  
16 would have some interaction with the agency?

17 MR. LUEKER: I believe there may have  
18 been some limited discussion on that, but  
19 generally speaking, the committee has been of the  
20 position that the law is what it is, whether we  
21 agree with every particular in it or not, our  
22 charter was to try to come up with rules in a  
23 limited period of time to address the existing  
24 statutes and once we have those rules in place if

1 program. And as I mentioned, I am APX's program  
2 manager for GIS. We interact with pretty much  
3 all of the stakeholders of the GIS, states,  
4 LSE's, generators, marketers. And of course, we  
5 are excited any time they say -- we are excited  
6 any time there's an RPS program that is going to  
7 be part of the NEPOOL GIS, and of course, that  
8 stands for the Rhode Island RPS program.

9 APX is policy control. Our job is not  
10 to make policy but just to make sure that the  
11 market rules of the tracking system of the  
12 tracking -- of the trading programs are applied,  
13 and basically, what I'm here for today is to  
14 offer some comments on Section 6.8 related to the  
15 customer sited and off grid generators. I  
16 believe there was some differences as to how such  
17 generators are going to be handled by the -- by  
18 the Rhode Island RPS program, and since that has  
19 been an issue that for the last year or so, we  
20 have been discussing it in NEPOOL GIS. I hope I  
21 can give you both the history and perhaps some of  
22 my views as to what is the best way to handle  
23 this matter.

24 Maybe the best way is to start with the

1 history. About a year ago some of the  
 2 participants wanted to make sure that off the  
 3 grid and what we call behind the meter  
 4 generators, in other words, the generators that  
 5 are not handled by the ISO New England settlement  
 6 system, that they have the right -- the  
 7 appropriate verification process in place so that  
 8 the output that our GIS system tracks is  
 9 realistic. The way the GIS handles such  
 10 generators even today is pretty much it is  
 11 relying on a self reporting mechanism. We  
 12 provide electronic interface so that the owners  
 13 of these assets, of these generating assets, they  
 14 report monthly their production. And of course,  
 15 there's been some ideas that there's a better way  
 16 to do that both from the verification point of  
 17 view and also from the way the production is  
 18 input into the GIS system.

19 So one or more of our participants came  
 20 up with some proposals which were discussed in  
 21 the NEPOOL markets committee, and there were  
 22 basically two options, two proposals there. One  
 23 was introducing verifying entities, i.e.,  
 24 independent entities to both NEPOOL and the GIS

1 administrator whose job would be to read the  
 2 meters and then manually enter it into the GIS  
 3 system. There was a second view that essentially  
 4 was an automated interface so that a metered  
 5 value gets input into the generation information  
 6 system. None of these two options were pretty  
 7 much liked or adopted by the markets committee  
 8 and there was really no clear decision by the  
 9 markets committee on this matter.

10 Instead the markets committee has  
 11 directed the participants to go back and talk to  
 12 the ISO New England metering group so that they  
 13 find a way to have the metering people within ISO  
 14 New England essentially provide the data into the  
 15 GIS. To my knowledge there is not any true  
 16 follow-up in this direction to date. And the way  
 17 things work in our GIS is pretty much the way it  
 18 worked before. We still have a self reporting  
 19 functionality.

20 So I saw that this issue was brought up  
 21 again as part of the Rhode Island RPS hearings  
 22 and I saw that essentially there were two options  
 23 which were probably verified options of what was  
 24 discussed in the markets committee. There was

1 one option that still we're talking about  
 2 verifying entities, but somehow it was asking for  
 3 an automatic type of interface into the NEPOOL  
 4 GIS system and then there was an Option B which  
 5 essentially was to have distribution companies  
 6 who are part of the ISO New England metering  
 7 group essentially be responsible for providing  
 8 this function.

9 So I'd like to offer my -- as one of  
 10 the people who is involved with the day-to-day  
 11 functions of GIS, I'd like to offer our view and  
 12 opinion. We believe Option B is something that  
 13 APX would prefer to see as the system  
 14 administrator. The reasons for our preference of  
 15 Option B as opposed to Option A is it does not  
 16 require any market rule changes into the NEPOOL  
 17 GIS which, of course, is okay with us, like I  
 18 said, we're not the people who are making the  
 19 rules, we are the people who make sure that the  
 20 rules are applied. Another reason is that Option  
 21 B does not require what we call a cardinal change  
 22 in the GIS system, and a cardinal change is more  
 23 of a contractual term in NEPOOL GIS, but what it  
 24 means is that APX has to make a change, but it

1 will be at a cost to the GIS program.

2 So to summarize, Option B, assuming  
 3 that the distribution companies provide the data  
 4 to ISO New England and then ISO New England sends  
 5 it back to the GIS, Option B is not going to be a  
 6 cardinal change for the GIS.

7 The third point I'd like to make  
 8 regarding the two options is the possibility of a  
 9 verifying entity. I think it's a pretty valid  
 10 and reasonable concept when it comes to a  
 11 geographically diverse and fragmented system such  
 12 as the system that the western region of the  
 13 United States is trying to come up with a  
 14 tracking system, for those familiar with this  
 15 program, so in such regions you have multiple  
 16 control areas, there are multiple even ISO's or  
 17 RES's, there's cases that some of the generators  
 18 do not fall within a clear jurisdiction, so in  
 19 that case it makes I think absolute sense to have  
 20 this type of a verified entity in a case like New  
 21 England and PJM is also falling into the same  
 22 category. I think we have the luxury of having a  
 23 very well-defined control area that all  
 24 generators, no matter if they're off grid, behind



1 the meter or not all generators belong in this  
2 control area, and of course, we then interface  
3 with this control area, that's where we get our  
4 data, and we think that with Option B we can  
5 continue to get the data even for that small  
6 portion of generators that fall in that category.

7 And also another reason is although the  
8 NEPOOL markets committee did not make a clear  
9 decision on this matter, I think the direction  
10 they gave to the GIS participants and the GIS  
11 working group, I think the direction that they  
12 asked them to take was clearly what I see in  
13 Option B. So these are the points I would like  
14 to make, and Commissioner, I'd be glad to answer  
15 any questions.

16 COMMISSIONER HOLBROOK: I know you've  
17 done it, but could I ask you, please, to just  
18 define Option A again and why you prefer B  
19 instead of A? I know why you prefer B, but why  
20 do you have less interest in Option A?

21 MR. ASTERADIS: The same reason that I  
22 -- first of all, let me define Option A, what are  
23 the more fundamental differences compared to  
24 Option B before I move into the second part.

1 Option A introduces new verifying entities which  
2 do not exist today. Essentially, the only  
3 verifying entity we have today is ISO New  
4 England. They're the ones that are sending us  
5 data for the vast majority of generators. So  
6 that is one of the more fundamental differences.

7 Option A introduces new verifying  
8 entities which essentially would be either  
9 electronically or physically reading the meters,  
10 verifying the output of the generators and then  
11 reporting back to GIS and really is the more  
12 fundamental difference. Option B instead calls  
13 for distribution companies who already have some  
14 contractual arrangement with these entities, and  
15 therefore, because there's a contract it means  
16 that there has to be a settlement on the meter  
17 which is read by the distribution companies and  
18 this is the measurement that can be through the  
19 ISO New England can be reported back to us and we  
20 think that this is a very reliable mechanism to  
21 do that. And also it is the one that requires no  
22 changes essentially of the market rules side and  
23 the infrastructure side of the GIS. By no means  
24 am I saying that if any participants tell me to

1 change the rules, then so be it, our job is to  
2 modify the system, modify the process and make  
3 sure that the --

4 COMMISSIONER HOLBROOK: Are there any  
5 other comments? If that concludes your  
6 testimony, I thank you for coming. Your points  
7 are well taken and will certainly be noted.  
8 Thank you very much.

9 MR. ASTERADIS: Thank you.

10 COMMISSIONER HOLBROOK: Chris Wilhite  
11 is the third speaker.

12 CHRIS WILHITE (Sworn)

13 MR. WILHITE: Chris Wilhite,  
14 W-I-L-H-I-T-E, work address is 741 Westminster  
15 Street, Providence, Rhode Island. Thank you,  
16 Commissioners, for giving the public the  
17 opportunity to offer its comments regarding the  
18 renewable energy standards.

19 My name, of course, is Chris Wilhite,  
20 and I am representing Clean Water Action and the  
21 Environment Council of Rhode Island. Clean Water  
22 Action is a grass roots environmental  
23 organization with 10,000 members in the state.  
24 After listening to Mr. Grasso's comments I feel I

1 have to address some of my concerns with those  
2 comments.

3 First of all, after listening to those  
4 comments you would think that the only expert in  
5 Rhode Island is Mr. Grasso, but I look out there  
6 and I see actually a few experts that I know  
7 personally and I think that there are plenty of  
8 experts on the Public Utilities Commission, so  
9 because of that, I'm here to commend the Public  
10 Utilities Commission for bringing forth these  
11 rules to go ahead and enforce the Renewable  
12 Energy Standards Act.

13 Another point that there isn't a whole  
14 lot of experience that Mr. Grasso seemed to imply  
15 among other states with RPS or RES are simply not  
16 true. Almost half of the United States of  
17 America have some kind of RPS. Eighteen states  
18 in this country have some sort of RPS. Here in  
19 New England four of those besides Rhode Island  
20 are Vermont, Connecticut, Massachusetts and  
21 Maine. So I'd just like to clarify those points  
22 right then and there.

23 A year-and-a-half ago Clean Water  
24 Action gave testimony supporting the passage of

1 the Renewable Energy Standards Act. So again,  
 2 I'm pleased to be here today to commend the  
 3 Public Utilities Commission of Rhode Island for  
 4 drafting the rules to enforce the RES Act. And  
 5 simply by making the shift to clean renewable  
 6 energy, Rhode Island is joining the leadership of  
 7 those 18 states that have a hopeful vision for  
 8 the future of our environment. Clean renewable  
 9 energy is a vision in which the threat of global  
 10 warming can be stopped, in which our clean air  
 11 and water can be protected from pollution, and in  
 12 which our wild heritage can be protected from  
 13 drilling and mining.

14 Before I worked on -- before I worked  
 15 for Clean Water Action I worked on a campaign to  
 16 stop oil and gas drilling on our national parks,  
 17 refuges and forests and always the solution was  
 18 for America to shift over to clean renewable  
 19 energy. So once again, I'm happy to be sitting  
 20 here supporting that solution.

21 Frankly, America's dependence on fossil  
 22 fuels not only affects the beautiful legacy of  
 23 wild lands that we have, it also hurts our air  
 24 and water quality. Everyone is familiar with the

1 oil and gas spills along our waterways and  
 2 everyone has heard stories about the pollution  
 3 that's caused by mountain top mining for coal and  
 4 indeed the removal of mountains, and everyone  
 5 every day is confronted with our air quality  
 6 issues when fossil fuels are burned to create  
 7 energy. Asthma becomes a more and more common  
 8 health threat. We're reaching tens and tens of  
 9 thousands of people suffering from asthma,  
 10 especially those folks who live near areas where  
 11 the burning of fossil for energy is high. And  
 12 burning fossil fuel for energy is the leading  
 13 cause of global climate change. Here in Rhode  
 14 Island our very way of life is threatened by  
 15 climate change. Rising sea levels threaten our  
 16 beaches and the tourism they bring to the region,  
 17 hotter days mean more ground level ozone which  
 18 causes bad air quality for people who suffer from  
 19 asthma, and also climate change damages our  
 20 nature forests and key agricultural crops of New  
 21 England like cranberries, maple syrup, corn,  
 22 those sorts of things. So again, I'm pleased to  
 23 be here to commend the Public Utilities  
 24 Commission for setting forth its rules regarding

1 the renewable energy standards.

2 There are three points, though, that  
 3 the Environment Council of Rhode Island and Clean  
 4 Water Action would like to bring up and to see  
 5 resolved in the final rules. First and foremost,  
 6 Clean Water Action supports National Grid's  
 7 opposition on the itemization of compliance costs  
 8 on consumer bills which is Section 8.4. By  
 9 itemizing compliance with the RES Act we're  
 10 sending the wrong message to consumers that clean  
 11 renewable energy costs money without  
 12 acknowledging the costs associated with not  
 13 switching over to clean renewable energy. Asthma  
 14 and other respiratory diseases, those things cost  
 15 money and lives. Destruction of open spaces to  
 16 drill and mine, that costs money in the  
 17 long term, and of course, global warming will  
 18 cost us money. So accordingly, Clean Water  
 19 Action and the Environment Council of Rhode  
 20 Island requests a change to Section 8.4 so that  
 21 compliance costs on consumer bills are not  
 22 required.

23 Second, Clean Water Action is also  
 24 concerned about the requirement for the entry of

1 generation information systems, GIS systems  
 2 certificates to be verified by an independent  
 3 third party after they've been entered into the  
 4 GIS system. This is a decent approach, however,  
 5 a better scenario would be for that independent  
 6 third party to actually enter the GIS data entry  
 7 themselves. While we understand that the system  
 8 infrastructure is not quite there yet, Clean  
 9 Water Action and the Environment Council of Rhode  
 10 Island would like to see the system improved so  
 11 things can be resolved. We simply see possible  
 12 conflicts of interest or not a very tight system  
 13 where that is.

14 MS. WILSON-FRIAS: Could I just  
 15 interrupt you one second while we're on the  
 16 topic? So you just heard the other gentleman's  
 17 testimony. Did you have a chance to look at  
 18 Option A and Option B in the original --

19 MR. WILHITE: Yes.

20 MS. WILSON-FRIAS: -- report? And so  
 21 are you in favor of Option A or is it something  
 22 different?

23 MR. WILHITE: Option A would require --  
 24 just to clarify, Option A would require the

1 independent verifier to enter the data  
2 themselves, right? Yes. Option A is what we  
3 would -- we are pushing for.

4 MS. WILSON-FRIAS: Thank you.

5 MR. WILHITE: Finally, Clean Water  
6 Action and the Environment Council of Rhode  
7 Island is concerned that really there's been  
8 little attention in the RES rules given to  
9 reducing greenhouse gasses from the electric  
10 sector. Our organization has been following the  
11 regional greenhouse gas initiative and its model  
12 rule making process pretty closely. And just for  
13 the record, the PUC can expect Clean Water Action  
14 to continue to push toward real quantifiable  
15 reductions in greenhouse gasses from power plants  
16 either through the ERS -- the RES or through  
17 RGGI, the Regional Greenhouse Gas Initiative.

18 Aside from these concerns, the Clean  
19 Water Action and Environment Council of Rhode  
20 Island is proud to come before the Public  
21 Utilities Commission for drafting these rules to  
22 put our state's energy renewable standards into  
23 effect. So thank you for your time.

24 COMMISSIONER HOLBROOK: Thank you, Mr.

1 third party production data tracking system. It  
2 is essential that this verification data entry  
3 process be efficient and trusted and we feel that  
4 the most economic way to do this is to allow  
5 independent third parties to directly input the  
6 data into the NEPOOL GIS.

7 I'd like to clarify one point that one  
8 of the previous speakers spoke about, the  
9 difference between Option A and Option B. The  
10 difference isn't necessarily having to verify  
11 themselves, it's the input of the data, and  
12 Option A, the third party verifier would go into  
13 the GIS system and input the data themselves.  
14 This -- by doing this the Rhode Island ratepayers  
15 will benefit from the increased use of cost  
16 effective behind the meter generation.

17 We, along with seven other  
18 organizations and Rhode Island companies are  
19 asking the Commission to write a letter to  
20 NEPOOL's markets committee requesting that the  
21 committee approve the necessary changes within  
22 the GIS. Knowing the Commission, how busy they  
23 are, we have submitted a draft model of what this  
24 letter would look like. I'd like to point out

1 Wilhite. The fourth speaker will be or  
2 commentator will be Nubia Perez from the  
3 Conservation Services Group.

4 NUBIA PEREZ (Sworn)

5 MS. PEREZ: Nubia Perez, Conservation  
6 Services Group, 40 Washington Street,  
7 Westborough, Mass., 01581. I first also want to  
8 thank the Commissioners for letting us speak here  
9 today. I am with a company called Conservation  
10 Services Group, CSG, and aside from other things  
11 that our company does, we have been a renewable  
12 energy generator since 1997. We have built 120  
13 behind the meter solar energy sites amounting to  
14 about two megawatts in ten different states, most  
15 of which are here in the Northeast, including  
16 Rhode Island and Massachusetts and New York. CSG  
17 independently owns and operates about  
18 300 kilowatts of the ten megawatts.

19 I'm here to speak about -- it seems to  
20 be a popular topic today -- Section 6.8, the  
21 customer sited and off grid generation. I'm here  
22 to speak in favor of Option A. In order for the  
23 REC markets to function effectively, it is  
24 critical to provide a third party verification,

1 one of most important facts is that the GIS  
2 system was built and its main purpose is to  
3 ensure that regulators such as yourselves have an  
4 effective means of achieving their goals and the  
5 goals should be and are that the RES system  
6 remain full of integrity and that all the  
7 generators are treated equally. As a small  
8 generator, as CSG, which, as I mentioned before,  
9 we do own behind the meter generation, we  
10 understand that this could increase the cost to  
11 the generators, but we feel that this quality  
12 control is important in order to have consumer --  
13 in order for the consumers to have confidence in  
14 our product.

15 I also want to make it clear that CSG  
16 is agnostic as to who does input the data. It  
17 could be the distribution companies, it could be  
18 a private company, we really don't care who  
19 inputs the data as long as the system is put in  
20 place that allows that process to happen. And  
21 I'd like to submit a letter which shows our  
22 support with, as I mentioned before, six other  
23 companies and non-profits that are in favor of  
24 Option A and attached to that, as I mentioned

1 before, is a draft model of the letter that the  
2 Commission can send to the markets committee.

3 COMMISSIONER HOLBROOK: Are there any  
4 questions? If not, thank you, Ms. Perez.

5 MS. PEREZ: Thank you. The next  
6 speaker is Matt Auten, A-U-T-E-N.

7 MATT AUTEN (Sworn)

8 MR. AUTEN: Matt Auten, business  
9 address is 11 South Angel Street, No. 337,  
10 Providence, Rhode Island. Thank you to the  
11 Commissioners for allowing me to speak. My name  
12 is Matt Auten. I'm an advocate with the Rhode  
13 Island Public Research Group. We're a non-profit  
14 and non-partisan public industry organization  
15 representing citizen members throughout the State  
16 of Rhode Island.

17 First I just want to express our strong  
18 support for the proposed regulations and  
19 establishing this renewable energy standard and  
20 thank the staff and the people that participated  
21 in the community to develop these regulations,  
22 and also for the record I just wanted to thank  
23 the original bill sponsors, Representative Paul  
24 Moura of Providence and Senator David Bates of

1 Barrington for the hard work they did getting us  
2 to this point as well and the leadership in the  
3 General Assembly, the Governor for ultimately  
4 signing this bill.

5 Overall, we believe that increased  
6 renewable energy in Rhode Island is both good for  
7 the environment, good for job creation in the  
8 state and also good for consumers in our energy  
9 market overall. This Act when it was passed had  
10 the support of 93 local and statewide  
11 organizations throughout the state, including  
12 groups as diverse as the Ocean State Fishermen's  
13 Association, the American Lung Association of  
14 Rhode Island, the AFL-CIO, a broad base of public  
15 support, and indeed, passed unanimously through  
16 both Houses of the Legislature.

17 The one issue I wanted to echo concerns  
18 about raised by Chris Wilhite on the mix being  
19 labeled. While we're obviously very in favor of  
20 consumer knowledge and the ability of consumers  
21 to determine their energy mix, we believe that  
22 the requirements in the bill which do require  
23 that your -- on your utility rate bill you can  
24 see where your energy is coming from is

1 sufficient for consumers to educate themselves.  
2 As I said before, we do not detail all of the  
3 costs both on public health and the environment  
4 of the energy. We make it indeed the long-term  
5 and short-term contract in terms of what energy  
6 is purchased. We don't necessarily include an  
7 analysis of that and the benefits or the costs  
8 associated with that. On consumer ratepayer  
9 bills there is access to that information, but we  
10 think having it on each individual bill would be  
11 the wrong place for that to be.

12 I also wanted to echo earlier comments  
13 about climate change and global warming. As you  
14 may know, in 2001 the New England Governors did  
15 enter into an agreement to reduce emissions to  
16 ten percent below 1990 levels by 2020. Clearly,  
17 the energy sector is a significant portion of  
18 those emissions, and according to an analysis  
19 done by the Tellus Institute for the Rhode Island  
20 greenhouse gas stakeholders group this standard  
21 will reduce about a half million tons of carbon  
22 monoxide which is the leading global warming gas  
23 by 2020, so we think that is an important step  
24 towards meeting those target goals, and in

1 addition, as has been mentioned, the nine  
2 Northeastern states are currently working to  
3 develop a program to regulate greenhouse gas  
4 emissions from the power sector in those states  
5 and indeed shifting to more cleaner renewable  
6 energy will be an important component of that  
7 program clearly as we seek to reduce the overall  
8 rate of emissions throughout the entire energy  
9 sector across the region.

10 I also just wanted to touch quickly on  
11 the -- on rates themselves. We believe that  
12 helping to diversify our energy supply has  
13 benefits for consumers and that it will help us  
14 to avoid some of the -- ultimately some of the  
15 rate headaches and some of the price spikes we've  
16 seen in the natural gas market. As we know,  
17 renewable energy, once the systems are built and  
18 in place, don't have fuel costs, there isn't a  
19 fuel to buy to turn the turbine. We believe that  
20 diversifying energy supply would be wise for  
21 investors in the stock market and will help to  
22 mitigate the price spikes that we've certainly  
23 been seeing the past couple months as hurricanes  
24 have battered the Gulf Coast and a lot of gas

1 supply for the region and indeed the country at  
2 risk.

3 Finally, I just wanted to touch quickly  
4 on some of the comments made earlier on the solar  
5 market and some of the possibilities and sort of  
6 put some anecdotal evidence out there. Currently  
7 the two countries in the world that are leading  
8 in solar production are Germany and Japan which  
9 are not necessarily two countries you would  
10 associate with being the sunniest places or most  
11 optimal places for solar, and as the technology  
12 evolves and grows with the economies of scale,  
13 the costs will continue to come down, but as of  
14 right now, those are the two places where the  
15 industry is really being led by, so it's not  
16 necessarily a direct correlation to either  
17 temperature or amount of sun. Clearly, those  
18 places are better places and have greater  
19 opportunity, but there's certainly opportunity  
20 here in Rhode Island as well.

21 COMMISSIONER HOLBROOK: Good. Are  
22 there any questions? Thank you very much, Mr.  
23 Auten.

24 MR. AUTEN: Thank you.

1 work we're doing on their behalf.

2 I guess I'm here to make some comments  
3 that I believe will help your Board to greatly  
4 improve the efficiency, transparency and trust of  
5 the REC markets and make them much more like  
6 other stocks and commodity markets in the way  
7 they perform. And in particular I'm here to  
8 discuss the data entry into the New England GIS,  
9 the Option A versus Option B that's been  
10 discussed, and I want to clarify that my  
11 understanding at least is Option B that has been  
12 approved to go forward does not involve the  
13 distribution utilities or anybody else entering  
14 data. I believe it preserves the status quo  
15 which is the self reporting of data by the  
16 generators and Option A allows for a third party  
17 verifying entity to enter the data.

18 My understanding is both options  
19 require some sort of verification of the data and  
20 I'm here to tell you that by providing  
21 verification on top of data entry by the  
22 generator or aggregator what you're doing is  
23 hugely driving up the cost of compliance with the  
24 RPS and the cost of fully participating and

1 COMMISSIONER HOLBROOK: The next  
2 speaker is Fred Unger.

3 FRED UNGER (Sworn)

4 MR. UNGER: My name is Fred Unger. I  
5 live at 165 Evergreen Street in Providence. My  
6 business is based in San Jose, California. I  
7 work with a company called Fat Spaniel  
8 Technologies, and was recently merged with a  
9 Massachusetts-based company called Value Added  
10 Energy Information System. I have some prepared  
11 testimony that includes some visuals. I don't  
12 know if that's appropriate to give to the  
13 Commission.

14 I guess first I want to echo everybody  
15 else's thanks for the excellent job the  
16 Commission has done with the regulations. My  
17 company -- contrary to the suggestion of the  
18 gentleman from APX, my company is an independent  
19 verifier of renewable energy generation. The  
20 last page of this document I gave you is actually  
21 a summary of a finding by the Connecticut  
22 Department of Public Utility Control which has  
23 certified us as verifiers of REC trades in  
24 response to a request by Pratt & Whitney for some

1 benefitting in REC markets and on that last page  
2 I handed to you the DPUC of Connecticut decision,  
3 Step 5, there's a whole bunch of very expensive  
4 paper chasing that's required precisely because  
5 GIS does not currently enable direct data entry  
6 by a verifier. And if that small change were  
7 made to the system, we would greatly reduce the  
8 cost of compliance with a very trustable REC  
9 market on behalf of the generators.

10 The other thing I just want to mention,  
11 and I'm not certain about this, but I was at a  
12 conference in New Jersey about two weeks ago in  
13 which the PJM GATS market, which is the  
14 equivalent of the NEPOOL GIS, was being discussed  
15 and my understanding from the gentleman that  
16 administers that on behalf of PJM was that APX  
17 indeed did enable automated data entry for  
18 generators in that market. So I know it's  
19 technologically very easy. We are currently able  
20 to enter data in the New Jersey solar REC market  
21 which is being administered by a different  
22 company, Clean Power Markets, we're able to  
23 automatically enter that data on behalf of  
24 generators and that enables the system to work

1 quickly, much more efficiently at a lower cost.

2           So I think the important thing to  
3 remember is that the purpose that the  
4 legislation -- the RPS legislation had and the  
5 purpose in general is to increase renewable  
6 energy production both to reduce our  
7 environmental footprint and to increase the  
8 stability and reliability of our energy supply.  
9 So in order to do that, the enabling mechanism is  
10 the REC markets and I think your primary goal  
11 here should be to increase the trust and the  
12 viability of the REC markets themselves.

13           The secondary need is -- should be to  
14 reduce the cost of participating in the trusted  
15 REC transaction because if the costs are too high  
16 to participate, that essentially eliminates all  
17 the small generators, and by their nature, a lot  
18 of renewable energy resources include small  
19 distributed generation.

20           We're currently monitoring over 300  
21 sites, mostly solar, but also wind and fuel cell  
22 projects. We're doing it as large as the new  
23 Wal-Mart green stores out in Texas and Colorado,  
24 the Whole Foods here in Providence and as small

1 as residential applications. In all those cases  
2 in New England we're providing -- currently  
3 providing REC reporting for the generators. You  
4 can see an example of that on Page 9 of what I  
5 just turned in. The challenge -- we put this  
6 together in the exact same format that the GIS  
7 reporting is but rather than being able to enter  
8 this data on behalf of our generators and  
9 aggregator clients all we can do currently is  
10 send it to them and they have to enter it  
11 themselves so it adds to the cost unnecessarily.

12           The third thing I'd like you to  
13 consider in this decision is how to encourage  
14 solutions that really provide additional critical  
15 benefits that enable renewable generators to  
16 succeed, and I want to assure you that I'm not  
17 here to increase my business because our clients  
18 are buying our services because they need all  
19 sorts of other benefits from monitoring other  
20 than REC reporting. We are collecting all that  
21 data anyway. And we're collecting -- my partner  
22 was a CPA that used to audit publicly traded  
23 firms for the New York stock exchange, NASDAQ and  
24 other public markets, so we collect -- and the

1 Connecticut DPUC has particularly reviewed our  
2 processes in great detail and certified that our  
3 company is doing this at a level that's trustable  
4 in a way that major stock market data is trusted.

5           I also want to add that the letter that  
6 Ms. Perez from CSG mentioned, we're co-signators  
7 on it. There's also two other independent  
8 monitoring companies that would easily be  
9 verifiers, so we believe this should be a  
10 competitive service, not a service provided by  
11 the utilities or anybody else, but a service that  
12 the generators and aggregators can choose among  
13 folks that you approve as qualified verifiers.  
14 It should be a competitive service based on the  
15 most efficient delivery and the most benefit  
16 perceived by the client and the generator  
17 themselves.

18           So the fundamental thing, if we go  
19 quickly through this presentation, I've got for  
20 you, for a market to succeed between the  
21 underlying asset, the generation asset and the  
22 buyers and sellers of those renewable energy  
23 credits, there has to be trust, there has to be  
24 good contracts and mechanisms for the

1 transactions to take place and there has to be  
2 market forces at play as in any other market. So  
3 the REC markets as established in the 18 states  
4 that have been discussed generally have many of  
5 the attributes of a stock market or commodity  
6 market. The difference between the stable,  
7 strong markets that we all are familiar with and  
8 the REC markets that are emerging today is the  
9 question of trust. And the thing that  
10 fundamentally undermines the trust in the market  
11 from the investor perspective is self reporting  
12 by the generators themselves.

13           The current way that generation is  
14 primarily reported today is an owner of a  
15 generation facility goes to their own meter at  
16 their own site, reads it themselves and calls in  
17 the data. That's inherently untrustable. That's  
18 similar to a publicly traded company making up  
19 their financial data on the, you know, reporting  
20 whatever the heck they want to without any kind  
21 of audit or any kind of verification by an audit  
22 or a CPA, so with this self reporting that's  
23 currently in place and that's provided by Option  
24 B, the REC markets are inherently untrustable.

1 So you're undermining the basic tool that this  
 2 legislation provides for which is the REC market.  
 3 So we want to commend very much the fact that you  
 4 call for a verifying, a third party verifying  
 5 entity, but you have to keep in mind, especially  
 6 on behalf of the small generators, if they self  
 7 report and there has to be an audit process  
 8 outside of the reporting, it's going to increase  
 9 the cost to your Commission, it's going to  
 10 greatly increase the cost to the generators and  
 11 it will, in fact, increase the cost to GIS. So  
 12 the most efficient way for this verification  
 13 process to be enabled is to enable the verifiers  
 14 to directly enter data into the GIS as they can  
 15 in the new GATS system down in the PJM territory  
 16 and to do so in a way that does not give us  
 17 access to all the other account information of  
 18 the generator/aggregator. As a verifier we  
 19 shouldn't be able to go in and initiate trades on  
 20 behalf of these other parties. We charge a flat  
 21 fee, we don't charge based on any of the benefits  
 22 or the REC trading or anything like that. So  
 23 it's important that we have a system in place  
 24 that is liquid, that's trusted, that allows for

1 real price discovery and that comes in at a  
 2 minimal cost.  
 3 The REC markets today, as Page 6 shows,  
 4 with self reporting is expensive, it's not timely  
 5 and it has a low level of trust. Under Option A  
 6 we can have a low cost transparent market, it's  
 7 automatic, timely, we can have the data entered  
 8 the day the period closes and it's highly  
 9 trusted. Most important we can provide a whole  
 10 bunch of other benefits through monitoring  
 11 besides this REC trading that's critical to the  
 12 success of renewable energy products.  
 13 I can tell you anecdotally that we've  
 14 had projects come on line that in the case of  
 15 solar projects, one project here in Rhode Island,  
 16 when we first went on line we had a four inverter  
 17 systems, two of the inverters were not working  
 18 and nobody knew it, so through monitoring we can  
 19 pinpoint and improve the actual production of  
 20 energy.  
 21 We had another case here in Rhode  
 22 Island that because one of the components wasn't  
 23 working properly, the stand-by losses on the  
 24 system were equaling 38 percent of the daytime

1 energy production. So there's a whole lot of  
 2 ancillary benefits that you can enable by  
 3 encouraging the actual use of monitoring services  
 4 that include the REC reporting.  
 5 I guess the other thing I can tell you  
 6 is that we found in REC contracts that were --  
 7 that we've been called to help address,  
 8 especially on larger commercial projects, there's  
 9 requirements in the contracts between buyers and  
 10 sellers outlined on Page 10 here with clauses  
 11 like the seller will provide access to an on line  
 12 reporting and monitoring system that reports  
 13 generation from its operation and the seller will  
 14 notify the buyer of any material outages,  
 15 breakdowns or inoperability of the system.  
 16 That's something that many of our clients are  
 17 buying our services because of this stuff anyway.  
 18 We've got the data and it's an extremely small  
 19 cost. We currently charge \$30 a year to do all  
 20 the REC reporting and that could be automated as  
 21 well as at the same low cost.  
 22 So in summary, we encourage you as  
 23 would our competitors that are providing this  
 24 service to consider that the REC markets need the

1 same level of trust that other markets need and  
 2 that also providing these -- this verification at  
 3 low cost is absolutely critical, especially for  
 4 small generators.  
 5 The final comment I have is in response  
 6 to the gentleman from APX is that the job of the  
 7 NEPOOL GIS is to respond to the needs and  
 8 requirements of regulators like yourself. It's  
 9 not your responsibility to respond to the  
 10 convenience of the GIS, and as these markets  
 11 emerge, and one of my partners was involved back  
 12 in '97 creating the first REC market in the  
 13 country, a retail voluntary market, but as these  
 14 markets emerge and mature we're learning from  
 15 them. Recently we've seen serious challenges in  
 16 the Connecticut market where a year ago we were  
 17 seeing REC prices up at \$8; today they're down at  
 18 \$6 because of some less than ideal details in the  
 19 implementation of the regulations. And we  
 20 believe that you have an incredible opportunity  
 21 right here today to greatly strengthen not only  
 22 the REC markets for Rhode Island but for all of  
 23 New England and we encourage you to request, as  
 24 Ms. Perez suggested in the letter that we

1 so-signed, we encourage you to request that the  
2 markets committee make what, in fact, is a very  
3 small change and what I know APX already has the  
4 technical capability to do that allows data entry  
5 in a very standardized format from verifiers.

6 COMMISSIONER HOLBROOK: Mr. Unger, is  
7 there a large quality market of companies or  
8 people who do this independent work that you  
9 described?

10 MR. UNGER: It's an emerging field,  
11 quite honestly. One of the first companies that  
12 did the monitoring was actually Ms. Perez's  
13 company. CSG has a subsidiary that monitored  
14 their own projects, did an excellent job of that.  
15 They're realizing the need to have that service  
16 be somewhat more independent because of this  
17 whole issue of trust in the REC markets. As she  
18 mentioned, they've got well over 100 sites that  
19 they're managing themselves. There's several  
20 other companies that do it. There's a very  
21 strong competitor in Europe. As I mentioned, our  
22 own company, Draker Labs and Heliotronics are all  
23 co-signators to this letter.

24 I think the more interesting thing I

1 Your comments are very appropriate and thank you  
2 very much. We've had six speakers thus far or  
3 six people in public comment. We have eight  
4 left. What I'd like to do is take about a  
5 ten-minute break and come back at 11:45 and see  
6 how fast it goes and maybe it will conclude  
7 before lunch or maybe we'll have to come back.

8 (RECESS)

9 COMMISSIONER HOLBROOK: Could we begin  
10 again please? The next speaker would be Bill  
11 Short.

12 WILLIAM P. SHORT, III (Sworn)

13 MR. SHORT: My name is William P.  
14 Short, III. My business address is Ridgewood  
15 Power Management, 947 Linwood Avenue,  
16 L-I-N-W-0-0-D, Ridgewood, New Jersey, 07450. I  
17 thank you for the opportunity to speak here. I  
18 just basically want to go over just really a few  
19 subject matters addressing things that I think  
20 two of the items we haven't heard and a third  
21 item essentially we've heard a lot on already  
22 today.

23 With respect to Section 3.22,  
24 Subparagraph 5 and Subparagraph 6, we believe

1 can report is as the REC markets themselves  
2 strengthen and become a place where real dollars  
3 are changing hands, you're going to see more  
4 players enter the field. There's any number of  
5 players in very similar related service areas and  
6 there's, you know, the REC markets are just  
7 getting to the point to actually encourage this  
8 at a large scale, but I can tell you that the  
9 monitoring services that this REC reporting  
10 system is a very small part of is rapidly growing  
11 and most of renewable generators, solar, wind and  
12 fuel cell generators are rapidly getting involved  
13 with it and many of them are realizing the  
14 benefit to this third party independence not only  
15 for REC trading, for selling and billing  
16 electricity to host facilities and also for third  
17 party warrantee services and warrantee  
18 verification.

19 COMMISSIONER HOLBROOK: Does that  
20 conclude your commentary?

21 MR. UNGER: Unless you have anything  
22 further.

23 COMMISSIONER HOLBROOK: Are there any  
24 other questions? Thank you very much, Mr. Unger.

1 still that there should be some additional  
2 language added into the regulations which  
3 essentially should clarify the intent of the  
4 statute on this matter.

5 If you -- referring back to the actual  
6 language itself, there's a requirement that you  
7 have to demonstrate ten percent increase in  
8 generation in capacity in order to get that  
9 generation to qualify as new renewable  
10 generation. When we drafted, you have the  
11 language, we split that in the regulations trying  
12 to address two issues. No. 1, a base load  
13 generation such as the Johnston Landfill, which  
14 we operate, as well as also trying to handle the  
15 issue of hydroelectric facilities. And the  
16 talking points that I distributed to you we've  
17 actually addressed these two issues.

18 We believe that, and I'll go first to  
19 the hydroelectric side. In the current  
20 regulations, proposed regulations, it states that  
21 you get a renewable new percentage to the extent  
22 you've made capital improvements. We have  
23 hydroelectric facilities that we believe we will  
24 be able to show through efficiency improvements



1 that they are 100 percent new for purposes of  
 2 this section. The way this section currently  
 3 reads, if that is true, then 100 percent of an  
 4 existing facility an efficiency improvement will  
 5 be completely new renewables. We don't think  
 6 that is the intent of the statute here. Okay?  
 7 And therefore, the phrase that we suggest needs  
 8 to be added in there will catch that point.

9 We also -- let's go back to the base  
 10 load capacity such as the Johnston Landfill,  
 11 which we currently own. We believe on that  
 12 facility by 2007 we'll be able to demonstrate  
 13 through capital improvements, efficiency  
 14 improvements that 80 percent of the total  
 15 generation up there essentially is post 1997  
 16 improvements. Okay? Again, so that facility  
 17 will be -- well in excess of this historical  
 18 baseline will be considered new almost. Of the  
 19 200,000 megawatt hours we anticipate will be  
 20 produced there, 160,000 would be deemed new.  
 21 Now, we think that again we began to focus on  
 22 this hole here in the regulations. We think that  
 23 we should add this language.

24 Going back again to the statute, it's a

1 ten percent increase in essentially the  
 2 generation. Okay? So our landfill we think it  
 3 just should be evident that we should be able to  
 4 demonstrate a ten percent minimum increase in our  
 5 production above our historic baseline before we  
 6 get any generation, but to the extent we go above  
 7 our historical baseline, let's say, using that as  
 8 100, to the extent we go above 100 but we exceed  
 9 110 initially, everything above 100, that is the  
 10 intent. We cannot see how the regulations are  
 11 written now anything above 100 provided I have an  
 12 efficiency or capital improvement goes into  
 13 essentially as new renewables. That's the intent  
 14 of these comments here. We'll make these as  
 15 written comments.

16 With respect to -- changing to the next  
 17 subject, Section 6.8, we endorse Option B.  
 18 Option B we think is the right way to go. It  
 19 needs one sole change. The verifier should be an  
 20 electric distribution company. We have been in  
 21 this business long enough. Ridgewood has been in  
 22 renewables since the mid 1980s. We have dealt  
 23 with electric distribution companies. We have  
 24 dealt with small projects. We believe that the

1 only person that should be in this field until  
 2 such time in the future as you can clearly say  
 3 that there's been a mistake keeping it in the  
 4 electric distribution company should be such  
 5 entities. In NEPOOL they are clearly qualified  
 6 as meter readers; there's clearly a procedure. I  
 7 look over, I see Narragansett. I know  
 8 Narragansett is not going to be an entity that's  
 9 going to be swayed by essentially a business.  
 10 Narragansett is not going to basically move away  
 11 from its primary purpose to essentially  
 12 incentivize people like me who go into solar or  
 13 other distributed generation to essentially curb  
 14 the meter is the term in the trade, curb the  
 15 meter, the wrong way. I think Narragansett does  
 16 a very good job of reading meters. They are  
 17 capable of doing this. They charge reasonable  
 18 rates and there's no reason to move away from  
 19 them toward essentially entities that might be  
 20 swayed otherwise. The integrity of this market  
 21 is at stake. We cannot tolerate essentially any  
 22 fraud taking place here.

23 Last but not least, we have submitted  
 24 another marked up version. There's lots of

1 typographical, clerical errors. They have them  
 2 at the back. We would like to suggest that it  
 3 might make sense that a group of people from the  
 4 working group, at least three, sit down and work  
 5 with the Commission staff to make sure that the  
 6 errors are taken out. These are grammatical  
 7 errors. There are no spelling errors, thank God,  
 8 but essentially, we should try to clean them up.  
 9 We've marked them up for you. Again, we're not  
 10 trying to say that people can't correctly edit  
 11 the work, but it's good that we essentially found  
 12 them. We need to get them removed from the  
 13 document as soon as possible. With that, that  
 14 concludes my comments. I'll be glad to take  
 15 questions and we obviously support it. We will  
 16 be filing written comments on the 24th.

17 COMMISSIONER HOLBROOK: Are there any  
 18 comments? I think your points are well taken,  
 19 Mr. Short, and the information you've given us is  
 20 comprehensive. So I don't have any questions  
 21 myself. If not, I thank you for your commentary.

22 MR. SHORT: You're welcome.

23 COMMISSIONER HOLBROOK: The next  
 24 speaker is Erich Stephens.

1 ERICH STEPHENS (Sworn)  
 2 MR. STEPHENS: Erich Stephens. I'm the  
 3 Executive Director of People's Power & Light  
 4 which is at 17 Gordon Avenue in Providence.  
 5 Thank you for the opportunity to speak here.  
 6 People's Power & Light, I just want to make  
 7 clear, is an environmental group. In one sense  
 8 we did represent the Environment Council of Rhode  
 9 Island in the rule making committee process but  
 10 we are also at the end of the day a consumer  
 11 organization. Our lifeblood is consumers, small  
 12 consumers, and we are as concerned with rate  
 13 increases and so on as anyone else. And so I  
 14 just mention that in the context of some of the  
 15 earlier comments that were made that consumers  
 16 weren't represented in the rule making process.

17 I'd like to think that we did an  
 18 excellent job doing that and certainly there was  
 19 opportunity for others if they had chosen. So we  
 20 thank the Commission and appreciate the  
 21 opportunity for commenting on these rules and we  
 22 -- the Commission did a great job in coming out  
 23 with the proposed regulations in a timely manner.

24 And as background I want to point out

1 again that the renewable energy standard coupled  
 2 with energy efficiency is the long-term energy  
 3 affordable policy we have available to us. I  
 4 haven't heard of any other plan aside from  
 5 increased use of renewables and increased  
 6 efficiency that in the long term is going to get  
 7 us out of the crunch we're in now of our reliance  
 8 on fossil fuels and the ever-increasing prices.  
 9 Certainly assistance programs for low income  
 10 consumers are important in the near term as are  
 11 short-term ways of procuring our energy, having a  
 12 portfolio going long, going short and so on, but  
 13 in the years ahead no amount of taxpayer subsidy  
 14 or other efforts are going to get us out of our  
 15 overdependence on fossil fuel. The only  
 16 solutions are increased use of renewables and  
 17 energy efficiency and I think the Commission  
 18 recognizes that, and so again, I commend you for  
 19 coming out with these regulations.

20 We do have two areas of concern. And  
 21 the first, I hate to say it, is regarding Option  
 22 A and Option B. I know you've heard a lot about  
 23 it already. And we are in favor of Option A and  
 24 the question that came out at an earlier meeting

1 was exactly how much are we talking about here in  
 2 terms of, you know, kilowatt hours and so on, and  
 3 the answer is right now, frankly, not a lot, but  
 4 the important thing to keep in mind is that  
 5 there's enormous potential out there. You heard  
 6 a lot of people talking about how we could move  
 7 to more distributed generation arrangements and  
 8 the benefits of that. So we want to make sure  
 9 that the rules that we put in place right now are  
 10 ready so that if we do go to a world where more  
 11 distributed -- lots of smaller generators that  
 12 have big central plants that the rules are in  
 13 place to make that happen. So that's really what  
 14 we're talking about now. And it's not very often  
 15 that you have an industry that asks to be  
 16 regulated. Most businesses, most industries are,  
 17 you know, they fight regulations at any  
 18 opportunity.

19 And as I see it, there's really two  
 20 reasons why, in fact, the REC market as we've  
 21 been hearing here today, the players are asking  
 22 basically what amounts to increased regulation.  
 23 There's two reasons why they do that. One is to  
 24 level the playing field among the different

1 competitors to ensure competition, and so that  
 2 everybody has a fair shot, and of course, at the  
 3 end of the day competition is good for consumers.  
 4 The other reason would be to maintain the public  
 5 trust and confidence in the industry itself. And  
 6 so long as the regulations are, in fact, good,  
 7 solid ones and not just window dressing, then  
 8 that's also good for consumers. And so that's  
 9 exactly what you have here today.

10 You have this letter that was handed to  
 11 you earlier of which we are a signer, if you look  
 12 at it, you'll see that it's people from up and  
 13 down the supply chain starting with the  
 14 generators to the people that will be handling  
 15 the data, to the people that install it, these  
 16 systems. Up and down the supply chain these  
 17 industry participants want to see this change  
 18 made, and the reason for that is, again, because  
 19 they want to see their industry work, they want  
 20 it to be -- have the confidence of the general  
 21 public and industry at large and for that reason  
 22 they're asking for Option A.

23 And again, to be explicitly clear, the  
 24 only difference between Option A and Option B, it

1 has nothing to do with Narragansett being a meter  
 2 reader. If Narragansett wants to compete and  
 3 offer that service, great, but the only  
 4 difference between Option A and Option B is that  
 5 with Option A the people reading the meter, the  
 6 verifiers are actually entering the data into the  
 7 GIS. With Option B, it still goes through the  
 8 people that would financially benefit from the  
 9 meter reading so there's always going to be that  
 10 open question. As we heard about curbing the  
 11 meter or whatever the term is that you could  
 12 easily envision a similar situation where, you  
 13 know, somebody mistypes that's entering the data.  
 14 If it's done by a third party, there's no  
 15 question and there's no nefarious purpose behind  
 16 it or something like that.

17 So with that in mind we're asking you  
 18 to do two things. One is to submit this model  
 19 letter that we've provided, or something like it,  
 20 to the markets committee. Again, the gentleman  
 21 from APX himself said that they're not agnostic  
 22 about exactly how this works, they're more  
 23 interested in serving their clients which is the  
 24 GIS. The GIS system is there to help regulators

1 such as yourselves to do your job. We don't want  
 2 a markets committee, some markets committee, who  
 3 knows who's on them, dictating to Rhode Islanders  
 4 the rules for implementing this Rhode Island RES.  
 5 It should be the other way around where the GIS  
 6 system is getting feedback from the regulators  
 7 and hearing what the regulators believe needs to  
 8 be the proper way to get this data into the GIS  
 9 and then the GIS and APX in turn responding  
 10 appropriately. We ask that you write this letter  
 11 and then we also ask that you simply tweak the  
 12 wording in Section 6.8 to say that instead of  
 13 re-examining the question if changes are made  
 14 that you would make more explicit, that if these  
 15 changes are made at the GIS that the Commission  
 16 would, in fact, require Option A and put that in  
 17 pretty much as a matter of course once those  
 18 changes are made at GIS.

19 The other area of concern to us is the  
 20 requirement that the so-called incremental cost  
 21 of compliance be itemized on the bill. And we  
 22 agree with National Grid that this requirement is  
 23 not a good idea. And the reason for that is we  
 24 respectfully suggest that requiring this would

1 both be impractical, it would be inaccurate and  
 2 it would be unfair. It would be impractical in  
 3 that there's general agreement the most cost  
 4 effective way to get RECs, to obtain a REC is to  
 5 enter into long-term contracts for a bundle of  
 6 energy and RECs -- and paying one price for both  
 7 the RECs and the energy. And as Narragansett or  
 8 anybody else might be moved to doing that, the  
 9 question is then how do you know what's the REC  
 10 cost and what's the energy cost. The answer is  
 11 you can't. It's one price for both. Even if you  
 12 were to come up with some formula for it, it's  
 13 just some formula, it's making something up and  
 14 who's going to want to take the headache of  
 15 actually trying to tangle out what's the REC  
 16 price and what's the energy price. It's not  
 17 something that I'd want to ask National Grid,  
 18 Narragansett to do if only because it would add  
 19 administrative complexity to their job and at the  
 20 end of the day that's going to come back as a  
 21 cost to ratepayers. It would also be  
 22 inaccurate -- this requirement would also be  
 23 inaccurate because it doesn't portray the savings  
 24 that accrue to ratepayers that would aggregate to

1 them over time and across society even if one  
 2 particular consumer might not be getting a  
 3 savings, you know, the whole idea of the  
 4 renewable energy standard is that collectively we  
 5 benefit from having a broader, more diverse  
 6 source of energy sources. That savings isn't  
 7 reflected there. Basically, you're only getting  
 8 part of the picture by reporting one number on a  
 9 bill. It's missing a lot of different benefits,  
 10 both savings and costs, that aren't reflected in  
 11 that one number. And as was pointed out earlier,  
 12 it, of course, totally ignores the health costs  
 13 and other societal costs that come from using  
 14 fossil fuels, and finally, it's unfair, too,  
 15 because it's -- it hinders an apples to apples  
 16 comparison of the different products that are  
 17 available out there. If we're truly serious  
 18 about a competitive market, we want to be able to  
 19 make it so that somebody can open up their bill,  
 20 see their standard offer charge and pick up the  
 21 phone to some other company and get a price and  
 22 be able to easily compare it and if we're forcing  
 23 the one -- the standard offer as the only place  
 24 where you sort of have to break out this cost,

1 it's unfair to marketers that want to try to  
2 compete against that standard offer and then --  
3 so you might say well, let's make everybody break  
4 out that cost. Well, that's akin to telling a  
5 manufacturer that, you know, when you give a  
6 price to, say, a car manufacturer, when you give  
7 the consumer the price, you have to tell them  
8 what your cost of goods are, you have to tell  
9 them what the costs of steel are and that's  
10 obviously not a place we want to go and that's  
11 not good in a free society that we have.

12 Finally, if you're going to show the  
13 REC compliance cost, why not show all the other  
14 costs that go into the standard offer, the fuel  
15 price index and administrative cost and  
16 everything else, and it's just a slippery slope  
17 and it would increase costs to Narragansett and  
18 ultimately to consumers and would have very  
19 little value to consumers because, again, they're  
20 only getting part of the picture if you were to  
21 put that one number on their bill. So we agree  
22 with National Grid that the compliance cost  
23 should simply be rolled into the standard offer  
24 price and left at that. And so I guess that's --

1 Did you follow the last standard offer process at  
2 all?

3 MR. STEPHENS: I attempted to.

4 MS. WILSON-FRIAS: I think at the tech  
5 session, and maybe it wasn't at the tech session,  
6 but that folks agreed that during the remainder  
7 of the standard offer period the REC requirement  
8 is going to end up adding to the standard offer  
9 charge. Would you agree with that at least  
10 through 2009? Because Narragansett is not  
11 currently required -- their suppliers aren't  
12 currently required to provide RECs.

13 MR. STEPHENS: In that short time  
14 period, right, there probably would be some  
15 increase, but to point to the short-term market  
16 that's out there right now, I think that's  
17 inaccurate.

18 MS. WILSON-FRIAS: Why?

19 MR. STEPHENS: Because, first of all,  
20 even just going on a relatively short contract  
21 like a year even or certainly two or three years  
22 you can get better prices that are out there in  
23 the short-term spot market right now for RECs, so  
24 to lock up what a broker is quoting for a one off

1 that concludes my comments.

2 Again, I just want to say that as was  
3 mentioned earlier there are lots of experts in  
4 this state. Mr. Grasso is perhaps one, but there  
5 are many others and I would just remind the  
6 Commission of that. As you're considering this  
7 issue of long-term contracts, for example, Mr.  
8 Grasso himself said you want to have a diverse  
9 portfolio. Right now we do not have a diverse  
10 portfolio. We're essentially only taking  
11 short-term positions and a big part of what the  
12 REC is about is diversifying, in aggregate  
13 diversifying our portfolio of energy services and  
14 so long-term contracts can be an important way of  
15 doing that as well, particularly if we're with a  
16 renewable generator where you can realistically  
17 expect them to deliver a fixed price 10, 15,  
18 20 years into the future which I simply can't do  
19 with a fossil fuel generator. Even if you enter  
20 into a long-term contract, they're going to put a  
21 fuel index into it.

22 MS. WILSON-FRIAS: Mr. Stephens, I just  
23 had one question, and I'm only going to pick on  
24 you because you come before the Commission a lot.

1 spot market sort of price and assume that you  
2 multiply that by your obligation for three years  
3 is not indicative of the kinds of prices you'd  
4 have to pay if you were to go out and have an RFP  
5 for a three-year supply. It's not quite  
6 accurate.

7 MS. WILSON-FRIAS: Maybe I'm  
8 misunderstanding something, but Narragansett  
9 currently gets standard offer for its standard  
10 offer customers. Okay. And right now the  
11 suppliers aren't required to provide renewable  
12 energy certificates bundled with that.

13 MR. STEPHENS: The standard offer  
14 suppliers you mean?

15 MS. WILSON-FRIAS: Right.

16 MR. STEPHENS: Yes.

17 MS. WILSON-FRIAS: I assume that  
18 Narragansett is not going to get these RECs for  
19 free.

20 MR. STEPHENS: No.

21 MS. WILSON-FRIAS: So even if the RECs  
22 are really cheap, it's still going to add  
23 something to the standard offer price.

24 MR. STEPHENS: Right. I'm agreeing

1 with that. What I'm saying is pointing to the  
2 spot market is not the right way to assess what  
3 that cost would be.

4 MS. WILSON-FRIAS: Well, I'm not  
5 talking about what that cost will be. I'm just  
6 saying that there will be an added cost.

7 MR. STEPHENS: In that short time  
8 frame.

9 MS. WILSON-FRIAS: Through 2009.

10 MR. STEPHENS: (Nodded affirmatively).

11 MS. WILSON-FRIAS: So part of what the  
12 Commission is going to be looking at through the  
13 end of 2009 is this incremental cost which  
14 ratepayers are going to see on their bill  
15 regardless of the benefits that they may be  
16 receiving in their health and reduced fossil fuel  
17 emissions, et cetera, correct?

18 MR. STEPHENS: Say that again. Can you  
19 ask that again?

20 MS. WILSON-FRIAS: The standard offer  
21 charge is going to have another component to it.

22 MR. STEPHENS: Right.

23 MS. WILSON-FRIAS: So when the General  
24 Assembly comes in and tells us that we shouldn't

1 long-term contracts because -- for the reasons  
2 that they've stated. And we would encourage them  
3 to do so. We understand why they're saying they  
4 shouldn't or couldn't, but really in my opinion  
5 at the end of the day in the long term the best  
6 solution is legislative. We need to either -- we  
7 need to acknowledge right now where these poor  
8 small consumers are. Competition is not working  
9 and it hasn't worked, so maybe it's time to  
10 revisit it and see if we shouldn't look at some  
11 sort of arrangement where consumers can benefit  
12 more directly from things like renewable energy  
13 standards and from long-term planning and  
14 everything else that would go into thinking  
15 intelligently for the next 5, 10, 20 years about  
16 what's best for small ratepayers, and I guess one  
17 -- one example I would point to, and I was told  
18 that Pascoag's standard offer is significantly  
19 less than National Grid's, and you would probably  
20 know better than me if that's true, I haven't had  
21 a chance to see it, but if that's the case, I  
22 think it's a great example of how a supplier to  
23 small customers by entering into intelligent  
24 contracts and thinking beyond just the end of the

1 raise rates like they did in the last case and  
2 when the Governor comes in, what would you  
3 suggest the Commission respond if the increase  
4 has something to do with this?

5 MR. STEPHENS: I honestly think that  
6 the National Grid and ratepayers in Rhode Island  
7 are in a rock and a hard place where in some ways  
8 they have the worst of both worlds. They can  
9 take long-term contracts, they can't get the  
10 price stabilization, the price hedging benefits  
11 of entering into long-term contracts through  
12 renewable generators, they're sort of handed the  
13 short-term price and so without -- and that's a  
14 result of the original deregulation legislation.  
15 So I would be in favor of revisiting the original  
16 deregulation legislation. If you're asking me  
17 what I would tell a legislator, that's what it  
18 would be. We have a broken system. We're not  
19 really -- deregulation was supposed to see  
20 competition where consumers, residential  
21 consumers could be choosing between different  
22 companies competing for their business, we're not  
23 seeing that, and meanwhile, National Grid isn't  
24 really in a place where they can go out for

1 next year, the next two or three years can  
2 deliver benefits to ratepayers and the RES is one  
3 component of that.

4 MS. WILSON-FRIAS: Pascoag is in a  
5 unique situation being a non-investor owned  
6 utility. They have some advantages that  
7 investor-owned utilities don't have.

8 MR. STEPHENS: Maybe all Rhode  
9 Islanders should get those benefits, too.

10 MS. WILSON-FRIAS: One last question.  
11 Through the end of 2009, and I'm not talking  
12 about beyond 2009, we will be able to see what  
13 those incremental costs are?

14 MR. STEPHENS: The REC costs?

15 MS. WILSON-FRIAS: Right. Through  
16 2009.

17 MR. STEPHENS: Right.

18 MS. WILSON-FRIAS: Okay. Thank you.

19 COMMISSIONER HOLBROOK: Are there any  
20 other questions? If not, thank you, Mr.  
21 Stephens.

22 MR. STEPHENS: Thank you.

23 COMMISSIONER HOLBROOK: The next  
24 speaker is Tom Bessette.

1 THOMAS BESSETTE (Sworn)

2 MR. BESSETTE: My name is Tom Bessette.  
3 I'm Director of Regulatory and Government Affairs  
4 for Constellation New Energy and my business  
5 address is 800 Boylston Street in Boston,  
6 Massachusetts, 28th Floor, 02199. Good morning,  
7 Commissioners. Good morning, staff. It's a  
8 pleasure to be here. Thank you for the  
9 opportunity.

10 My company's Constellation New Energy.  
11 I want to give a little bit of who we are. We  
12 are a non-regulated power producer in the State  
13 of Rhode Island. We're also a licensed retail  
14 supplier in 17 states and two Canadian provinces.  
15 We currently provide over 15,000 megawatts of  
16 electricity supply directly to businesses  
17 throughout the country for their own use,  
18 including many customers here in Rhode Island. I  
19 believe we have about 100 megawatts of load in  
20 Rhode Island presently.

21 We are a subsidiary of a larger group  
22 called Constellation Energy Group. That's a  
23 Fortune 200 company headquartered in Baltimore,  
24 Maryland. The subsidiaries of Constellation

1 Energy Group include Constellation Energy  
2 Commodities Group, that's a wholesale supplier of  
3 electric power to many of New England's  
4 businesses for their standard offer or their  
5 basic load for traditional standard offer, or  
6 whatever they're calling it in the state at the  
7 time. We also have a utility company called  
8 Baltimore Gas & Electric, and we have a  
9 generation group that owns a fleet of generation  
10 plants mostly in the PJM region, Maryland region.

11 As an initial matter I would just like  
12 to say that Constellation generally is supportive  
13 of renewable energy portfolio standards across  
14 the country. We do have considerable activity in  
15 both Maine and Massachusetts in New England.  
16 They both have RPS requirements and we function  
17 seamlessly in those markets.

18 Further, I would just say initially  
19 that my quick review of the regulations are that  
20 they are similar to what I've seen in other  
21 states and that they are generally reasonable.  
22 However, we do have one more area of concern and  
23 that's the sole reason why I'm here today. It's  
24 related to Section 8 entitled contracting

1 standards and procurement plans.

2 In particular, we take issue with the  
3 language that allows or actually, in fact,  
4 requires utility companies to enter into  
5 long-term contracts for RECs and energy and to  
6 recover those rates from ratepayers. You'll find  
7 that language in Sections 8.3 through 8.7. The  
8 concern we have is basically two-fold.

9 First, it seems to me that allowing  
10 utilities to enter into, or again, requiring  
11 utilities to enter into long-term contracts for  
12 RECs and energy once again raises the ugly  
13 specter of another round of stranded costs. When  
14 Rhode Island restructured its electricity market  
15 I think about some nine years ago, the first in  
16 the New England region to do so, utilities  
17 divested their generation plants, they divested  
18 their purchased power contracts and for that they  
19 were allowed to recover their stranded costs that  
20 were associated with those generating plants and  
21 those out of money purchase power contracts. And  
22 it seems to me one of the precepts of the  
23 restructuring law was to remove or unbundle  
24 generation from transmission distribution. And

1 one basic reason for that was to once and for all  
2 remove the risk of a future round of stranded  
3 costs away from the ratepayer and put it on the  
4 backs of companies like people who supply power,  
5 retail suppliers and wholesale suppliers and our  
6 shareholders. So requiring utilities to enter  
7 into long-term contracts with renewable  
8 developers would once again place that risk of a  
9 bad or uneconomic decision on the backs of Rhode  
10 Island ratepayers.

11 Secondly, and I think perhaps more  
12 important from the perspective of the Commission,  
13 it seems to me that the rationale for this  
14 requirement would generally be that without such  
15 a requirement for utilities to enter into  
16 long-term contracts, perhaps the renewable energy  
17 industry would not flourish in Rhode Island,  
18 would not flourish in New England generally. In  
19 other words, we need some government mandate,  
20 some long-term contract mandate to get those  
21 companies up and running. I'm here today to  
22 state that it's my opinion, and I believe based  
23 by the facts, that the marketplace will solve  
24 that problem. Companies like Constellation New

1 Energy will enter into long-term contracts with  
2 renewable developers thereby providing the  
3 necessary financing for those plants as you go  
4 forward.

5 Now, that's not just a theoretical  
6 statement. We, in fact, have done that, we're  
7 doing a lot more of it as time goes on. I'll  
8 just mention three examples. Constellation New  
9 Energy has contracts with New Bedford  
10 Commonwealth Energy, that's a 3.27-megawatt  
11 plant, it's a ten-year contract, it's in New  
12 Bedford, Massachusetts. That project is up and  
13 running and the output will produce 25,000 RECs  
14 per year approximately. We have two contracts  
15 with Ammaresco in North Hampton, Massachusetts,  
16 that's one megawatt; it's a ten-year contract  
17 that will be up and running by the first quarter  
18 of 2006. That will produce approximately 7,800  
19 RECs per year. And the second one with Ammaresco  
20 is a larger unit, seven megawatts, it's for ten  
21 years, it's located in Delaware and that project  
22 will be up and running by January 2006 and it  
23 will produce some 55,000 PJM RECs per year in the  
24 PJM market. In addition, we have other contracts

1 with renewable facilities. It's the business  
2 thrust of my company at this time to enter into  
3 additional contracts for renewable energy and  
4 some of those are much larger than the ones I've  
5 mentioned here today.

6 So it seems to me the argument that  
7 states renewable development will not occur  
8 absent the government mandate that Narragansett,  
9 National Grid, excuse me, enter into new  
10 long-term contracts is simply -- the argument is  
11 wrong, it's flawed.

12 So that I guess just to conclude, if  
13 the requirement of forcing utilities to enter  
14 into long-term contracts is unnecessary to meet  
15 the requirements in the New England region, for  
16 the reasons I stated and also I think in the past  
17 in Massachusetts, for example, the Commissioner  
18 of the Division of Energy Resources stated as  
19 recently as of April 25th that he -- it was his  
20 understanding that there was sufficient  
21 development of renewable developers to meet the  
22 New England requirement including the new Rhode  
23 Island requirement, and secondly, if there's a  
24 real risk, and there is of new stranded costs by

1 imposing that requirement, my question would be  
2 why impose the requirement. I will put this in  
3 written comments and file it by October 24th, and  
4 I thank you for the opportunity to speak this  
5 morning.

6 MS. WILSON-FRIAS: I just have a couple  
7 questions. If National Grid were to enter into  
8 like a contract that was load following with  
9 RECs, how would they end up with stranded costs?  
10 I mean, right now the standard offer contract,  
11 for example, is set up so that it's load  
12 following. If the load drops off, we don't pay  
13 first, a minimum, same with last resort contract,  
14 and I'm curious how there would be stranded costs  
15 in that situation.

16 MR. BESSETTE: Well, I think if you  
17 were to read Mass. Electric's comments that were  
18 recently filed, I think their position was that  
19 there are two ways that you could incur stranded  
20 costs, one through a migration of risk, which is  
21 what you're talking about, the load following  
22 risk, so if you're going to remove that, you  
23 would still have the risk that when you purchase  
24 today the price is higher than what it would be

1 out four, five or six or ten years from now and  
2 that, in fact, is stranded costs, so there's two  
3 ways to achieve stranded costs.

4 MS. WILSON-FRIAS: Then I asked Mr.  
5 Grasso this question. Do you agree with him that  
6 standard offer, which is a long-term contract,  
7 has been below market, or do you not know?

8 MR. BESSETTE: In Rhode Island?

9 MS. WILSON-FRIAS: Yes, in Rhode  
10 Island.

11 MR. BESSETTE: Well, you have standard  
12 offer and then you have the fuel adjustments that  
13 Narragansett is allowed and I would -- without  
14 actually going through each year since its  
15 inception, I would think that almost all the time  
16 the standard offer cost alone was below the  
17 market price.

18 MS. WILSON-FRIAS: Do you have any  
19 opinion as to the retail rate?

20 MR. BESSETTE: What about the retail  
21 rate?

22 MS. WILSON-FRIAS: Whether or not that  
23 was still below market after the fuel adjustment  
24 was added. Like, for example, it's 8.2 cents per

1 kilowatt hour right now.

2 MR. BESSETTE: So when you say the  
3 retail rate, you mean the rate --

4 MS. WILSON-FRIAS: That customers are  
5 seeing.

6 MR. BESSETTE: 8.27 cents today?

7 MS. WILSON-FRIAS: Yes.

8 MR. BESSETTE: Is that it with the fuel  
9 adjustment?

10 MS. WILSON-FRIAS: Yes.

11 MR. BESSETTE: That's below market.

12 MS. WILSON-FRIAS: If the rate were 10  
13 cents per kilowatt hour, would that still be  
14 below market, the rate that customers were seeing  
15 on their bill?

16 MR. BESSETTE: We're talking about  
17 commercial / industrial, residential?

18 MS. WILSON-FRIAS: Everybody on  
19 standard offer pays the same.

20 MR. BESSETTE: Well, I mean, if you're  
21 talking about today 10 cents per kilowatt hour,  
22 my company could not match, so it would be below  
23 and I think that's true of all companies. It  
24 would be below long-term contracts for energy

1 that has so many strong aspects to it.

2 We did provide written comments to the  
3 regulation and today I just want to summarize  
4 briefly one of the points that has been raised by  
5 other speakers and also that we address in our  
6 comments regarding long-term contracts. But I  
7 did want to say that in particular I found that  
8 there's many, many aspects to this draft  
9 regulation that are so exemplary that we hope to  
10 see many of them put into place going forward in  
11 other states or in states that are considering  
12 changes to their existing renewable standards.  
13 So we are very supportive of the overall program  
14 design and many of the aspects of it.

15 Experience has shown around the country  
16 and in other parts of New England that there are  
17 some significant disadvantages and risks  
18 associated with procuring renewable energy  
19 certificates for RPS compliance solely on the  
20 spot markets. We've experienced that in  
21 Massachusetts where basically consumers are right  
22 now paying the maximum possible price for RES  
23 compliance when significantly less expensive  
24 options are proven to be available both through

1 capacity that we have to pay for.

2 MS. WILSON-FRIAS: Okay. Thank you.

3 COMMISSIONER HOLBROOK: Any other  
4 questions? Thank you, Mr. Bessette. The next  
5 speaker is Debra Donovan.

6 DEBORAH DONOVAN (Sworn)

7 MS. DONOVAN: Deborah Donovan. My  
8 business address is 2 Brattle Square, Cambridge,  
9 Massachusetts. Good afternoon, and thank you for  
10 the opportunity to provide comments today on the  
11 proposed regulations for the Rhode Island  
12 renewable standard.

13 I'm representing the Union of Concerned  
14 Scientists. We're a national advocacy  
15 organization, a non-profit, independent  
16 non-profit. We have staff in Cambridge,  
17 Washington, DC, and also in Berkeley, California.  
18 UCS actively participates in the development of  
19 renewable standards both at the national level  
20 and in almost every state of the 18 or 20 states  
21 that have adopted renewable standards around the  
22 country, and I'm here to commend the Commission  
23 and the members of the working group in their  
24 excellent work in arriving at a regulatory draft

1 the competitive market and through regulatory  
2 programs such as the Massachusetts Renewable  
3 Energy Trust and deals that municipal utilities  
4 are also entering into that are showing that both  
5 contracts of a combination of energy and RECs or  
6 long-term REC contracts are coming in at the two  
7 to three cent -- or maybe slightly more now, but  
8 two to three cent range as opposed to the  
9 alternative compliance payment which in  
10 Massachusetts costs consumers \$14 million for the  
11 2004 compliance year. That money will be  
12 invested in long-term contracts for RECs,  
13 fortunately, but it is something that should be  
14 done directly rather than taking this extra step.

15 The reason why long-term contracts for  
16 RECs or for RECs and energy are so advantageous  
17 is they can stabilize the long-term energy prices  
18 or even reduce them and they enhance the  
19 environment quality of the other economic and  
20 energy system reliability benefits that we get  
21 from the construction of renewable energy in the  
22 region and it has become a best practice  
23 elsewhere and our written testimony describes  
24 some of the ways that other states have put that



1 into place and also gives some examples of how  
 2 long-term RECs and energy prices have actually  
 3 saved consumers money and could come in at prices  
 4 that are lower than standard offer. So that is  
 5 something that I would hope that the Commission  
 6 would consider and continuing to retain that  
 7 requirement for the procurement process to  
 8 include long-term contracts here.

9 We also believe that these long-term  
 10 contracts can be procured by utilities in a  
 11 prudent manner and that the regulations contain  
 12 some significant and very sufficient disclosure  
 13 and reporting requirements and as well as  
 14 competitive procurement procedures that would  
 15 keep this a transparent, open process, and so on  
 16 that point I do disagree very strongly with some  
 17 of the points that were made by the first witness  
 18 today. So it's especially important that  
 19 long-term contracts be part of procurement for  
 20 consumers that stay with the utility because  
 21 they're going to be, like, you know, small  
 22 industrial or commercial operations or  
 23 residential consumers that we don't expect to see  
 24 a competitive marketplace open up for them in any

1 significant way and they should also be -- the  
 2 benefits of long-term contracts for renewables or  
 3 RECs and renewables should be available to them  
 4 and the only way to do that is to have the  
 5 utility that's providing them their service do  
 6 that. The renewable facilities themselves can  
 7 provide these price and supply stability benefits  
 8 when they're under long-term contracts. They've  
 9 demonstrated the ability to do so. And it is in  
 10 fact true that long-term contracts are needed to  
 11 secure financing and there is a portion of the  
 12 market that will be getting that through their  
 13 competitive supplier, but there's such a vast  
 14 majority of consumers that don't have competitive  
 15 supply options and long-term contracts for the  
 16 renewables obligation for those consumers should  
 17 be considered. Our comments -- not considered  
 18 but retained in the regulations.

19 Our comments document several examples,  
 20 as I mentioned before, and some evidence from  
 21 national lab studies that demonstrate both the  
 22 need for and the benefits of long-term contracts,  
 23 so I'll just -- instead of going into the  
 24 details, I'll leave it to the Commission to

1 review our submitted comments.

2 One of the benefits of the -- in  
 3 particular of long-term contracts is they do  
 4 offer a lower risk than going into the short-term  
 5 market for renewable energy or to any kind of  
 6 procurement for fossil energy because they don't  
 7 require a premium going out into the future to  
 8 secure a fixed price in the 10 to 15-year time  
 9 frame. They are in the best interest of  
 10 consumers because they help ensure renewable  
 11 energy does get built and we need that for fuel  
 12 diversity and other important economic and  
 13 environmental reasons. They bring significant  
 14 cost advantages and they don't in my opinion  
 15 provide or pose a stranded cost risk for several  
 16 reasons. One is that the RECs themselves are  
 17 fungible and will be in demand regardless of  
 18 whether the customers stay or go that there will  
 19 be somebody who is going to need those RECs to --  
 20 somebody is going to need those RECs to comply  
 21 with their -- comply with their RES obligation,  
 22 and so, you know, the original buyer of those  
 23 could just turn around and sell them. If they'd  
 24 been purchased under a long-term contract, that's

1 the lowest possible price that you can get for  
 2 them and so the risk is extremely low that the  
 3 sale price would be anything below what they were  
 4 bought for if they were bought at the long term  
 5 and with the prudent costs being recoverable,  
 6 we're also talking about a pretty small fraction  
 7 of the costs of supplying the total loads of the  
 8 utility. The percentage that the RPS targets and  
 9 also we're just talking about potentially a small  
 10 premium if not a savings. That would be -- that  
 11 would be the expenditure on the long-term  
 12 contracts. And with the expectation,  
 13 unfortunately, that there's not going to be a  
 14 significant competitive market to get the small  
 15 customers off of the utility that we feel that  
 16 this is a very important feature of the program.  
 17 That concludes my comments.

18 COMMISSIONER HOLBROOK: Any comments?  
 19 I have no questions. Thank you very much. The  
 20 next speaker is Dennis Duffy.

21 DENNIS DUFFY (Sworn)

22 MR. DUFFY: Dennis Duffy with Energy  
 23 Management, Inc., 75 Arlington Street, Boston.  
 24 Energy Management, Inc., EMI, has been in the

1 energy business for roughly 25 years developing  
 2 and taking through project financing seven prior  
 3 energy projects. Most of those were in the  
 4 non-renewable fossil industry sector. We've  
 5 since sold all those plants and are now focussing  
 6 just on renewable energy development, largely in  
 7 response to the RPS programs which have been  
 8 developed at the state level within the New  
 9 England states. We been actively involved  
 10 throughout this settlement -- this proceeding,  
 11 including the settlement sections, and would like  
 12 to commend generally the Commission and the staff  
 13 in the way the entire matter was handled from  
 14 start to finish.

15 I wanted to just say a few things about  
 16 that procedure in response to some of the  
 17 comments which were raised earlier which, taken  
 18 out of context, could be seen to put a  
 19 negative -- cast in a negative light the work  
 20 that's been done and the report that was filed  
 21 and actually the regulations which have been  
 22 proposed.

23 I would note that this working group  
 24 met for eight full sessions, including one

1 technical session with the Commission, and out of  
 2 those I believe everyone who had an interest or  
 3 point of view had every opportunity to make their  
 4 voices known. Mr. Grasso in particular I believe  
 5 testified today that he only attended two to  
 6 three of those nine sessions. So I think he as  
 7 well as anyone else had every opportunity to make  
 8 their views known, but I also think the  
 9 proceedings were handled in a very fair way.  
 10 Anyone who had a dissenting view was free to  
 11 include a dissenting provision within the report,  
 12 and I know in several places people did that. I  
 13 also think it was -- it's inappropriate at this  
 14 point in the proceeding to request basically that  
 15 a report worked on over many months be  
 16 disallowed. If any party had reason to believe  
 17 that a facilitator should have been disqualified,  
 18 the time to bring that up in a motion to  
 19 disqualify was many months ago, not at the close  
 20 of the proceeding which in effect would allow a  
 21 party that has a problem to wait and see what the  
 22 results of the proceeding are and only then after  
 23 the fact if they don't get the results they want  
 24 they could raise the issue. I just --

1 procedurally I think that's just not the  
 2 appropriate way to go.

3 In any event, on the merits we're  
 4 pleased with the way the regulations were issued.  
 5 My comments will be directed to the comments that  
 6 were raised today and we'll supplement our  
 7 comments within the stated time frame.

8 On the first point that was raised by  
 9 Mr. Grasso as to whether it would be appropriate  
 10 for this Commission to exercise some oversight  
 11 role in how funds might be expended by the  
 12 renewable energy development fund, he raised a  
 13 legitimate point, but I would point the  
 14 Commission to Exhibit D1 to the report which was  
 15 filed by the working group which was a legal  
 16 memorandum of law addressing the very issues that  
 17 he raised. And essentially, what that memorandum  
 18 concludes, and what I think the majority  
 19 conclusion of the group was, was that the  
 20 question of who should have discretion over  
 21 funding or investment decisions of the energy  
 22 fund was specifically dealt with by the  
 23 legislature, and although he may -- certain  
 24 parties may not agree with how the legislature

1 decided to do that, that question has been  
 2 settled in the law and a regulatory forum to  
 3 adopt rules to implement the law weren't seen as  
 4 a majority of the group to be the appropriate  
 5 time to question the decision of the legislature,  
 6 and I think that's why the issue ended up where  
 7 it was. It's not that people necessarily didn't  
 8 agree with him or wouldn't give him floor time, I  
 9 think the majority position, and the correct  
 10 position, is the law is clear on that point and  
 11 not in his favor.

12 Turning next to the question of  
 13 long-term contracts. Again, I think this is one  
 14 of the important issues of the entire proceeding.  
 15 I think -- I believe I said it at the technical  
 16 session. Without long-term contracts there's  
 17 going to be such a practical difficulty in  
 18 getting new projects financed that we would be  
 19 unlikely to meet the goals set out by the  
 20 legislature. Now, again, I'd like to point back  
 21 to what the legislature actually said the  
 22 objective was in this case. And when I look at  
 23 the statute at 29-26-6, we have been charged with  
 24 developing standards for contracts and

1 procurement plans for renewable energy resources  
2 to achieve the purposes of this chapter, and  
3 those purposes are stated at Section 3 of the law  
4 to include stabilizing long-term energy prices  
5 and creating jobs in Rhode Island in the  
6 renewable sector.

7 Now, one of the things that was talked  
8 about this morning, and I think was recognized by  
9 the different speakers, is that there's always an  
10 inherent tension between stability and  
11 volatility. Short-term pricing is the most  
12 volatile. It reflects the immediate spot market  
13 price, but it also gives you the greatest  
14 volatility and the least amount of stability, and  
15 I think in all prudent rate planning and  
16 regulation there's always a balance between  
17 reflecting the immediate spot pricing and giving  
18 consumers the type of stability that's  
19 appropriate from a public policy perspective.  
20 And I think one thing that's been overlooked in  
21 the comments to date, though, in this particular  
22 instance where we're talking about a relatively  
23 small portion of the overall supply portfolio,  
24 the specific objective of the legislature was to

1 stabilize long-term energy prices. So it's not  
2 to come up with the short -- the price that  
3 reflects the spot market today. The objective of  
4 this exercise is to stabilize prices in the  
5 long term. And we believe and I think with most  
6 of the participants in the proceeding the best  
7 way to do that, get long-term stability, is  
8 through long-term pricing which you only get  
9 under long-term contracts.

10 Just a couple of other points. Mr.  
11 Bessette for Constellation mentioned a study by  
12 the DOER that showed there could be a surplus of  
13 utilities -- of renewable energy in the future.  
14 I would just point out that that study made no  
15 analysis as to how many of those plants would  
16 actually get financed and that's the huge  
17 assumption. Proposals, even proposals which get  
18 permitted are one thing. Proposals that then get  
19 financed and constructed are an entirely  
20 different matter and I do recognize, as he said,  
21 Constellation has negotiated several contracts,  
22 but my tally from the comments were two megawatts  
23 of new production in New England. Now, that's  
24 good, but it's certainly no where near the volume

1 that's going to get us to meet the goals that the  
2 legislature had in mind.

3 And finally, on stranded costs, I agree  
4 largely with Ms. Donovan's comments that stranded  
5 costs really are a red herring issue here. To  
6 say that any long-term purchase, even a small  
7 portion of supply purchase going long term  
8 creates stranded costs is really another way of  
9 saying we should serve the public entirely on a  
10 spot market with spot market pricing. The same  
11 logic would apply to any decision to hedge at all  
12 through any kind of portfolio plan, mid-range,  
13 short-range planning. If anything other than  
14 short-term purchasing with maximum volatility is  
15 unacceptable because it could result in stranded  
16 costs under some hypothetical scenario, we'd have  
17 to revisit the way we do a lot of our regulatory  
18 planning in Rhode Island.

19 For example, we've got a deregulated  
20 natural gas market quite a few years ahead of us.  
21 You could ask the question under that logic do we  
22 want our gas companies supplying the public only  
23 at spot market prices with short-term supply  
24 contracts and interruptible or short-term

1 pipeline contract? I don't think that's where we  
2 want to go as a matter public policy.

3 In closing, I would say to put in the  
4 right perspective we're talking about relatively  
5 small percentages of supply starting at only two  
6 percent of the overall electrical supply and in  
7 light of the express statement of the legislative  
8 purpose to stabilize costs on a long-term basis,  
9 I believe long-term contracts just for this piece  
10 of the supply or portion of this piece of the  
11 supply is the best way to go.

12 And let me just add one final point to  
13 put the whole thing into context. I will include  
14 in our comments a report recently issued by ISO  
15 New England identifying their heightened concern  
16 with the reliability situation for the electric  
17 grid in New England over the upcoming winter.  
18 There is increasing concern at the ISO level that  
19 the overdependence on natural gas as our primary  
20 generating fuel is posing very serious  
21 reliability questions for the winter going  
22 forward. And when we look out several winters in  
23 advance, one of the things we're going to have to  
24 find is additional generation sources that don't

1 put further stress on the natural gas supply  
2 system and renewables really from what's proposed  
3 today. That's the only credible option on the  
4 table. Thank you.

5 COMMISSIONER HOLBROOK: Mr. Duffy, is  
6 there any way that long-term contracts can be  
7 altered so that the alterations mitigate the risk  
8 that has been identified with them, so you still  
9 really have the characteristics of a long-term  
10 contract, but it takes -- some of the alterations  
11 would take some of the sting out of it?

12 MR. DUFFY: Absolutely, Mr.  
13 Commissioner. I think when we talk about  
14 long-term contracts, there's a whole range of  
15 pricing structures that can be used in a  
16 long-term contract, for example, we've done  
17 long-term contracts on prior projects which had  
18 certain elements of the pricing structure subject  
19 to periodic adjustment based on where different  
20 market features were. Some of them were  
21 referencing posted energy prices for gas, for  
22 oil, there are a lot of different ways you can do  
23 it that can provide the stability and assurance  
24 that's needed to obtain project financing but in

1 a way that mitigates the risk upon the purchaser  
2 down the road.

3 COMMISSIONER HOLBROOK: Thank you. Are  
4 there any other comments? Thank you, Mr. Duffy.  
5 If that concludes your remarks, the next speaker  
6 is John Farley.

7 JOHN FARLEY (Sworn)

8 MR. FARLEY: My name is John Farley,  
9 F-A-R-L-E-Y. My business address is One Richmond  
10 Square, Suite 340D, Providence, Rhode Island,  
11 02906, and I'm the Executive Director of the  
12 Energy Council of Rhode Island.

13 Good afternoon, Commissioners. Thank  
14 you for the opportunity to provide comments in  
15 this proceeding. I also do want to commend the  
16 Commission for its setting up the process that  
17 they did. While I share a lot of the concerns of  
18 some of the speakers that talked about the  
19 perspective of the consumer, I don't share the  
20 concern that the process was flawed other than  
21 the fact that by the nature of things people who  
22 have more of an interest in an outcome are going  
23 to tend to spend more time on it. I don't know  
24 how you overcome that. I do think that there are

1 still issues on the table that need to be thought  
2 out from the point of view of the ratepayer and  
3 that's why I'm here today.

4 I represent the large users of  
5 electricity and natural gas in Rhode Island,  
6 manufacturers, hospitals, universities, other  
7 large entities. We employ about 70,000 Rhode  
8 Islanders and our objective is to hold the line  
9 on energy costs, and in particular in this  
10 proceeding to make sure that any monies that are  
11 collected from ratepayers actually provide those  
12 long-term benefits that are stipulated in the  
13 law. And because of that we, during the  
14 proceedings, the informal working group, we  
15 really focussed on about three areas that have  
16 been discussed today; the oversight of ratepayer  
17 money, contracts and procurement plans, and also  
18 making sure that the Commission's adequacy  
19 reviews had some specificity to them in order --  
20 so that both the ratepayer and the development  
21 community could have some expectation of how they  
22 might be decided. And a lot of that has already  
23 been provided in the record both at the technical  
24 session as well as the document and the positions

1 that we took.

2 I do want to continue to emphasize to  
3 the Commission the importance of every possible  
4 means of overseeing the funds. I understand the  
5 legislature has spoken with respect to the  
6 structure of the renewable energy development  
7 fund itself, but I also recognize from the law  
8 that there are opportunities for the Commission  
9 and its oversight of what the utility does in  
10 particular to make sure that when the money is  
11 passed off it's done in such a way that it's  
12 clear what the intentions are, and I do think  
13 that the intention is to make sure that that  
14 money collected from ratepayers, particularly in  
15 the alternative compliance mechanism is spent on  
16 new supply in some manner or fashion and whatever  
17 kind of steps consistent with the Commission's  
18 interpretation of the law can be made to increase  
19 the probability that that happens I think is a  
20 step in the right direction.

21 With respect to the long-term  
22 contracts, since that is quite an issue, I think  
23 that we in the document were in favor of at least  
24 allowing that option to be considered in the

1 procurement process. I think that's the right  
 2 place and I think that -- I don't think you want  
 3 to tie the hands of whoever the procuring agency  
 4 is on behalf of ratepayers that they must only do  
 5 long-term contracts or that they absolutely have  
 6 to, because I think you want some flexibility in  
 7 order to get the best arrangements for customers  
 8 given the best information that can be provided  
 9 during that procurement process. And so that's a  
 10 nuance of language that I think has to be worked  
 11 out. I'm not sure to be perfectly honest what  
 12 that section now says so I think that to say that  
 13 long-term contracts should not be part of the  
 14 procurement is going too far in one direction; to  
 15 absolutely say that the procurement has to be  
 16 done with long-term contracts is going too far in  
 17 the other, but I think that they should be  
 18 allowed and that their merits be examined as part  
 19 of the procurement I think is on target.

20 I think other than that, the -- let's  
 21 see. Option A and Option B I refuse to comment  
 22 on. Other than that, I think that's pretty much  
 23 the only areas that we continue to have a concern  
 24 in. Oh, one more, actually, if I might be

1 allowed. With respect to recovery as a separate  
 2 line item, I think that customers should know. I  
 3 mean, this is an area similar to energy  
 4 efficiency and other places where the legislature  
 5 for a public policy purposes is asking ratepayers  
 6 to pay extra money and I think it's reasonable  
 7 that the ratepayers should know what they're  
 8 paying for what purposes. I haven't thought  
 9 through all the technical issues of being able to  
 10 identify what those actual costs are, and if  
 11 those are overwhelming, then so be it, but I do  
 12 think that the ratepayers have a right to know,  
 13 particularly with a legislative intervention,  
 14 what this cost is.

15 COMMISSIONER HOLBROOK: Do you think  
 16 some kind of a periodic maybe semi-annual or  
 17 annual two or three or four paragraph communiqué  
 18 from whoever would be an alternative to the  
 19 requirement to put the separate cents per  
 20 kilowatt on a billing that probably most people  
 21 would find confusing or not understand?

22 MR. FARLEY: Yeah. I think -- if  
 23 you're talking about a communication to  
 24 customers.

1 COMMISSIONER HOLBROOK: Yes.

2 MR. FARLEY: And where it's balanced,  
 3 where it does identify some of the benefits that  
 4 were mentioned this morning, this is why we're  
 5 doing it, this is what we spent and this is what  
 6 it went to. Something very simple like that I  
 7 think would be appropriate, yeah. And the other  
 8 thing, as an aside, I think this is more  
 9 appropriate for the actual rate making  
 10 proceeding. I do want to emphasize that since we  
 11 do have a competitive market that those costs  
 12 that are incurred on behalf of standard offer  
 13 customers or its successor services are always  
 14 charged only to the standard offer customers or  
 15 customers of the successor service because  
 16 otherwise you could have a situation where people  
 17 that are buying their supply from competitors are  
 18 not only paying for their own compliance in the  
 19 competitive supply but are also paying for the  
 20 compliance for other customers and I think we  
 21 want to make sure to separate those two streams.

22 COMMISSIONER HOLBROOK: Any questions  
 23 from the Commission? Thank you.

24 MS. WILSON-FRIAS: I just had one

1 question, actually.

2 COMMISSIONER HOLBROOK: Sure. Go  
 3 ahead.

4 MS. WILSON-FRIAS: Mr. Farley, you  
 5 indicated that with long-term contracts, to say  
 6 no long-term contracts would be too far one way  
 7 and to say only long-term contracts would be too  
 8 far the other way. If I told that you the  
 9 language said that long-term contract shall be  
 10 made part of the electric utility distribution  
 11 company's portfolio for procuring its target  
 12 percentage, et cetera, et cetera, is that  
 13 somewhere in the middle for you because it's part  
 14 of a portfolio as opposed to one side or the  
 15 other?

16 MR. FARLEY: I think it is, but I think  
 17 that that language is going to be difficult to  
 18 interpret. In other words, if I have a long-term  
 19 contract for a kilowatt hour, have I fulfilled  
 20 the mandate, and I think that -- someone could  
 21 come before -- a utility in the future could come  
 22 before this Commission in a particular year and  
 23 have a great argument as to why they should not  
 24 sign any long-term contracts and I think that

1 ought to be considered.

2           So now as a practice, you're asking my  
3 professional opinion, yeah, I think a mix is the  
4 way to go. If you look at, particularly in a  
5 rising market, who's doing well and who's not,  
6 when you have a mix of instruments both short  
7 term and long term, I think that is a much more  
8 wise approach to procurement. So as a matter of  
9 practice I think that will work, I just don't  
10 know about how it will be interpreted and  
11 implemented.

12           MS. WILSON-FRIAS: Thank you.

13           COMMISSIONER HOLBROOK: Thank you, Mr.  
14 Farley. The next speaker is Chris Burnett.

15           CHRISTOPHER BURNETT (Sworn)

16           MR. BURNETT: My name is Chris Burnett.  
17 My business address is 415 Sea Meadow Drive in  
18 Portsmouth, Rhode Island, and the company I work  
19 for is Spinblade Energy. First of all, since I  
20 participated in a majority of the meetings that  
21 occurred to develop these rates, I do want to  
22 state that I thought the meetings were run well  
23 and effectively and that Mr. Raab did a balanced  
24 job of trying to get the regulations put into

1 place to reflect what the statute desired and I  
2 do not believe that the regulations would have  
3 come into place on time and would have been  
4 effective without the means and the assistance of  
5 somebody to coordinate the effort. There was an  
6 awful lot of work that was done by him to pull  
7 all the pieces together when you have a disparate  
8 group of people that have many requirements on  
9 their time.

10           Second, I do want to state that a mix  
11 of long and short-term contracts have been proven  
12 in numerous studies to assist in maintaining the  
13 type of stability you want for pricing which is  
14 good for the consumers which is the bulk of all  
15 electric consumption in the State of Rhode Island  
16 and throughout most electric utility areas and  
17 that in most businesses a long and short-term mix  
18 is an appropriate way to reduce the overall risk  
19 of troubles. If you don't believe that, take a  
20 look at the airline industry or those folks who  
21 did not take long-term contracts in their fuel  
22 and all the trouble those folks are having that  
23 didn't do this and take a look at power in many  
24 areas in New England where actually I live in a

1 place as a second home that has reduced its cost  
2 of electricity because of its long-term contracts  
3 for nuclear power.

4           Third, I think stability of pricing has  
5 a great deal of merit for customers. Customers  
6 budget. Basically, they live on relatively fixed  
7 incomes, maybe they accelerate by a small amount  
8 per year, but to live at the spot market rate  
9 where you have extreme volatility in pricing has  
10 a cost for consumers and does not make sense.

11           Fourth, if you are in the renewable  
12 energy development business, you would know that  
13 renewable energy has a characteristic of being  
14 heavy in capacity cost and light in ongoing  
15 costs, particularly if you're talking about such  
16 things as wind, water or solar energy which are  
17 the sort of pure renewable energies. And in  
18 those cases you have to finance the capital  
19 costs. In order to finance the capital costs you  
20 typically would go in for some sort of a mix of  
21 equity and debt and for the equity or for the  
22 debt part of that or for the bank loan you need  
23 to have a very good debt to cover ratio in order  
24 to get banks to be interested. If you're going

1 to get the bankers interested, you must have  
2 somebody cover that risk. Well, the guy, the  
3 company that controls most of the money flow from  
4 the customers is the utility in the State of  
5 Rhode Island and without having this utility with  
6 a very high credit rating backed with a long-term  
7 contract the developers in the State of Rhode  
8 Island will have a great deal of difficulty  
9 meeting the standards required under the RPS or  
10 renewable energy standard as it's called in the  
11 state.

12           Worldwide you'll find that government  
13 intervention was key to getting high levels and  
14 accelerating levels of renewable energy  
15 developed. If you look at the Danish market,  
16 which has very similar wind to Rhode Island as a  
17 case in point, government intervention was key to  
18 getting to the point where they're now delivering  
19 about 25 percent of all of their electricity with  
20 wind energy which is probably one of the  
21 principal sources of renewable energy you can get  
22 in Rhode Island. Solar is much more difficult  
23 and not cost effective in the state. The  
24 geography precludes a whole lot of hydro,

1 additional hydro, so that puts you back to  
2 biomass and a few other areas which there will  
3 probably be some renewable energy coming from  
4 that, but you need to have government  
5 intervention to assist in providing a rate  
6 structure over a long period of time so that you  
7 can match the time that's required to finance the  
8 capital development.

9           There is a perception or a statement or  
10 there are written documentation, there's  
11 certainly an argument that there's all sorts of  
12 money waiting on the sidelines equity wise to go  
13 out and develop these projects. I don't believe  
14 that that is a correct assessment of the true  
15 situation out there, and the other problem that  
16 Rhode Island has is scale. If you do have equity  
17 money and in light of, say, a Shell Oil or  
18 Florida Power & Light and you're trying to  
19 convince them to put this equity money in the  
20 State of Rhode Island, because it's the smallest  
21 state in the union and because of the scale of  
22 the state you'll find that they're going to  
23 larger projects typically out West or in Canada  
24 or in other parts of world where they can better

1 justify the whole financing process and the whole  
2 justification process. Typically most wind farms  
3 are justified on a case basis of around 50  
4 megawatts or \$50 million. And they had great  
5 success with this in states like Texas where RPS  
6 has been a key driver behind that, in states like  
7 California where it's been a key driver.

8           So obviously from these statements you  
9 can see that I come down very strongly on the  
10 part of the long-term contracting. I believe the  
11 wording that was put in will help the case but  
12 unless the utility itself is willing to step  
13 forward and fully embrace the concept of  
14 long-term contracting there are ways that it  
15 could still be avoided and the whole process and  
16 the solicitation and everything else, and if that  
17 happens, it's unlikely that you will achieve the  
18 other objective that's stated in the law which is  
19 beyond stabilization of prices it's to create  
20 jobs in the State of Rhode Island. You will  
21 probably meet the renewable energy requirements  
22 from other states from perhaps wind farm  
23 development in other areas or biomass plants  
24 being built in Maine or in other states that are

1 part of the grid and that will have very minimal  
2 effect on the job market in this state. So my  
3 bottom line is is that you should leave the  
4 long-term contracting requirements in the wording  
5 as stated. I understand the objections.

6           I do believe that the competition or  
7 the competitive act that was passed in 2000 or  
8 1996 is essentially broken for the consumers and  
9 at some point in time probably within the next  
10 two years we're going to have to address that  
11 fact as well. But in the meantime let's put into  
12 place a renewable energy standard which has a  
13 chance of getting a foothold in the state and  
14 meeting what is actually a small incremental  
15 addition in need. That's all.

16           COMMISSIONER HOLBROOK: Thank you, Mr.  
17 Burnett. Are there any questions from the  
18 Commission? Thank you very much. We have two  
19 speakers left. Bob Grace would be the first one.  
20 ROBERT GRACE (Sworn)

21           MR. GRACE: My name is Robert Grace.  
22 My firm is Sustainable Energy Advantage, 4 Lodge  
23 Lane in Natick, Massachusetts. I'm here  
24 representing as a consultant the State Energy

1 Office. I'll try to be brief given that I'm sure  
2 a lot of lives are all getting tired and hungry.

3           I'd like to start off by commending the  
4 Commission in two ways. First of all, for  
5 initiating a unique and I think uniquely  
6 successful process for developing the draft  
7 regulations. I think it was one in which the  
8 input was far more balanced than I'd to be  
9 believed and represented by one party earlier  
10 today. The draft regulations really do reflect a  
11 consensus on nearly all points, not a majority  
12 vote, and where there was not consensus, the  
13 draft regs that were presented respectfully  
14 reflected each party's positions to the  
15 Commission, so I do not see any hint of bias  
16 there. And in general I'd like to also commend  
17 the Commission for showing respect to that  
18 process by adopting nearly all of the negotiating  
19 committee's recommendations.

20           The State Energy Office has the unique  
21 role here as the SPC administrator in charge of  
22 the Rhode Island renewable energy fund and that  
23 fund's goal here with respect to the renewable  
24 energy standard is to balance a couple of

1 different objectives to meet the RPS targets  
 2 while balancing ratepayer -- maximizing the  
 3 benefits to ratepayers and minimizing the cost to  
 4 ratepayers and some of that is targeted at  
 5 lowering the cost of renewables and a lot of that  
 6 perspective is behind our participation in the  
 7 few comments that I have today. And in  
 8 particular the statute requires the State Energy  
 9 Office to collaborate with the PUC and Economic  
 10 Development Corporation in maximizing the  
 11 combined impact and efficiency of the SPC and  
 12 renewable energy standard, so we think this has  
 13 come to a good position and we're very pleased in  
 14 general with the rules as they currently stand  
 15 and really want to comment in three areas. Two  
 16 of them are changes that were made by the  
 17 Commission between the negotiating committee's  
 18 draft and the current draft that's before us and  
 19 one relates to a possible oversight, something  
 20 that was really left out of the regulations, and  
 21 while probably not controversial, needs to be  
 22 addressed.

23           The first point is on the requirement  
 24 to itemize compliance on customer bills. We

1 think that's not advisable for several reasons.  
 2 First of all, the bills are already pretty busy  
 3 and we think this is something that's going to be  
 4 too complex and too confusing to customers.  
 5 Importantly, though, it's not comparable, it's  
 6 not a level playing field. This is a generation  
 7 service cost, not a T&D cost. Non-regulated  
 8 power producers won't be showing their RES  
 9 compliance cost as a line item, so they'll be  
 10 bundled in with their generation service prices  
 11 as they appear on the bill. So customers will  
 12 see it one way for competitive suppliers, another  
 13 way for the standard offer supplier and I believe  
 14 at that point it creates confusion and really  
 15 doesn't create a level playing field.

16           Perhaps the most important reason,  
 17 though, is it's misleading. It shows only the  
 18 direct monetary cost without the benefits, and  
 19 I'm not going to talk here about the  
 20 environmental benefits and those things that are  
 21 rather hard to quantify. It is well accepted and  
 22 documented that when you increase the supply of  
 23 renewable energy in a market of fixed size, that  
 24 you're going to lower both the electricity and

1 gas prices, what's called the price impression  
 2 effect for all of the electricity consumed, for  
 3 all of the natural gas consumed in the region.  
 4 This is a benefit that will be felt by all  
 5 customers but to show only the cost without those  
 6 benefits is surely misleading. Many studies  
 7 suggest that this price suppression effect cannot  
 8 affect much if not all of the cost. In other  
 9 words, cost of the RECs, the certificates and  
 10 especially given the high natural gas prices that  
 11 we're experiencing today, the prospect that those  
 12 savings could actually exceed the gross cost of  
 13 the renewable energy credits is very real, so I'm  
 14 sure this isn't what was intended but it seems  
 15 the only possible result of showing the gross  
 16 cost to customers rather than the net cost is to  
 17 neglect presenting information based on  
 18 misleading information. Perhaps a report maybe  
 19 on the lines that Ms. Wilson suggested that took  
 20 into account the direct costs and indirect costs  
 21 might be an appropriate way to communicate what  
 22 is still a reasonable objective to communicate.  
 23 What is this RES costing us and what are the  
 24 benefits and certainly customers who are paying

1 for it deserve that information. Unfortunately,  
 2 it's really not feasible to show the true at the  
 3 time costs that involves really us being able to  
 4 understand what would have been in the absence of  
 5 the RES. But nonetheless, there are quite a few  
 6 studies that have come about to the general  
 7 conclusions and one can analytically get a very  
 8 good estimate then that's something that's  
 9 probably worth doing.

10           The other primary area I wanted to  
 11 comment on was the long-term contract issue. The  
 12 Commission's modest changes to Section 8 suggest  
 13 a requirement for long-term contracts as part of  
 14 the portfolio. I as well as I guess some of the  
 15 other commenters here are not entirely sure what  
 16 that means but stepping back from that we believe  
 17 a good process has been drafted through the  
 18 negotiation whereby information will be solicited  
 19 by National Grid and available to the grid and to  
 20 the Commission both short and long-term costs  
 21 that allow everybody to make wise procurement  
 22 decisions on behalf of customers. It's only with  
 23 that actual bid data that we can know the  
 24 trade-offs and the potential savings, foregone or



1 secured. We talked a lot about the theoretical,  
 2 but this process will allow us to have the real  
 3 data and be able to evaluate does a long-term  
 4 contract make sense, does short-term procurement  
 5 make sense. Of course, when you're doing this  
 6 analysis future REC prices are uncertain,  
 7 particularly in this RES market environment,  
 8 though, in which demand is constantly increased  
 9 each year through 2019. New renewables simply  
 10 won't be built unless REC prices are going to be  
 11 sufficient to get renewable generators sufficient  
 12 revenue to attract capital and get financed so  
 13 while REC markets clearly will fluctuate from  
 14 time to time, year to year based on short-term  
 15 movement supply and demand and it's absolutely  
 16 true that they may drop quite low if supply ever  
 17 exceeds demand, there's no reason to expect  
 18 sustained REC prices at or near zero becoming  
 19 provisions in the standard will cause surplus  
 20 RECs to be valued towards future compliance  
 21 providing prices that will be well below zero.  
 22 One can be confident that there is a long-term  
 23 REC price whereby supply wouldn't keep up with  
 24 demand that wouldn't be sustainable and that a

1 conservative estimate that long-term, sustainable  
 2 long-term price. It would be proper to consider  
 3 that in evaluating what we believe is the right  
 4 metric, the net value cost to customers at short  
 5 term and long-term contracting alternatives, so I  
 6 guess the question is should long-term contracts  
 7 be required. Well, it's up to the Commission to  
 8 decide whether commitments are compatible with  
 9 the market structure. To balance National Grid's  
 10 arguments on this topic it seems wise to consider  
 11 long-term contracts and to make wise or prudent  
 12 decisions based upon the available data and  
 13 conservative assumptions. The process that's  
 14 been agreed to by National Grid provides such  
 15 information so that's a good foundation to work  
 16 from. Even though there may be prices at which  
 17 long-term contracts do and at which they don't  
 18 make sense, for instance, long-term contracts at  
 19 or near alternative compliance payments would not  
 20 make any sense. Therefore, the State Energy  
 21 Office would not oppose a requirement that  
 22 long-term contracts be considered in procurement  
 23 plans but would certainly not insist that  
 24 long-term contracts be required. We believe the

1 Commission should require as part of the  
 2 procurement plan the choices among various firms  
 3 reflect the economic present value analysis over  
 4 a comparable time horizon and comparable quantify  
 5 of certificates being procured considering at a  
 6 minimum a realistic long-term price for the RECs  
 7 in the future won't be zero, they'll cost  
 8 something.

9 And in our written comments we'd be  
 10 happy to provide some hypothetical examples of  
 11 such calculations and how we think that might  
 12 work. And also in those comments we will respond  
 13 to some I'll call them mischaracterizations in  
 14 National Grid's written comments. You probably  
 15 haven't had to time to review them yet and in  
 16 particular a reference to an analysis that I  
 17 presented that I think has been mischaracterized,  
 18 but I will not burden you with a point by point  
 19 on that right now.

20 Finally, we'd like to know there is  
 21 undoubtedly some risk associated with entering  
 22 into long-term contracts. The State Energy  
 23 Office is currently in its role as renewable  
 24 energy fund administrator considering a program

1 that would create complimentary incentives,  
 2 necessarily modest due to the small size of the  
 3 fund, but incentives nonetheless to partially  
 4 offset that risk for parties that would enter  
 5 into long-term contracts and we hope in this  
 6 process that the National Grid has agreed so that  
 7 there'd be an opportunity to introduce those  
 8 complimentary programs and incentivize parties to  
 9 come in and make long-term contracts happen.

10 Lastly, on the omission that I  
 11 mentioned earlier, some stakeholders and  
 12 Commission staff have identified a possible  
 13 oversight with respect to certification language  
 14 of Section 6. It was brought up after the  
 15 negotiating committee process closed that that  
 16 language seemed to only apply to new renewable  
 17 certification and didn't address the  
 18 certification of existing renewables. In taking  
 19 a look back at that section as one of the  
 20 drafters of that section I believe very modest  
 21 changes of a few words can make the regulations  
 22 more suitably applicable to both new and  
 23 existing. It will require the Commission to  
 24 develop different forums for new and existing

1 systems. I circulated around this morning by  
2 e-mail to the service list and to staff some  
3 draft language or draft markups. I welcome any  
4 comments if I've gotten it wrong, but just help  
5 to plug that gap.

6 Finally, I wasn't going to comment on  
7 this, but given that it's everybody's favorite  
8 topic, Section 6.8, I just wanted to emphasize  
9 that some of the comments really seem to have  
10 been off target, that the only material  
11 difference between Options A and B were that  
12 under Option B you continue the current practice  
13 of unverified data by commercial or interested  
14 parties being entered and under Option A you have  
15 an independent party that will verify that  
16 information before entering it. There is no  
17 difference in systems or who reads the meters.  
18 It's a very similar question. Option A provides  
19 a great deal more veracity and credibility to the  
20 market because the information will not be  
21 suspect to being biased. Either Option A or  
22 Option B would probably work better with  
23 automated data entry, but that's not -- does not  
24 seem to be the issue on the table. With that I

1 MR. GRACE: I'm not sure we have an  
2 easy answer to that. It may be a matter of  
3 simplifying the forms for new and simply not  
4 having certain items that you would look to for  
5 new, and frankly, maybe a much less detailed and  
6 contentious process. You may be able to shorten  
7 up the process of certifying existing renewables.  
8 I'm not sure there are going to be the number of  
9 issues or complexities and any level of  
10 controversy that might be associated with  
11 certifying new renewables. You might be able to  
12 come much closer to an instantaneous turn-around  
13 rather than the 90-day process. So I'm happy to  
14 help and be a sounding board on drafting those.

15 MS. WILSON-FRIAS: Thanks.

16 COMMISSIONER HOLBROOK: Thank you very  
17 much, Mr. Grace, for your comments. We have one  
18 other speaker who will be here the second time.  
19 Mr. Asteriadis?

20 KADIS ASTERIADIS (Resumed)

21 MR. ASTERIADIS: I will really be very  
22 brief. I just wanted to provide perhaps a bigger  
23 picture on a comment that -- comment that was  
24 made on the certification issue regarding how PJM

1 will conclude my comments. I'm willing to answer  
2 any questions that you have. Thank you.

3 COMMISSIONER HOLBROOK: Are there any  
4 questions?

5 MS. WILSON-FRIAS: I have one really  
6 quick. Mr. Grace, does Massachusetts have  
7 certification for existing renewables?

8 MR. GRACE: Massachusetts does not.  
9 Massachusetts RPS is only a standard for new  
10 renewables, despite some recent rulings that may  
11 have undermined that intent, but there is not a  
12 separate standard for existing renewables as we  
13 have in Rhode Island.

14 MS. WILSON-FRIAS: Does any New England  
15 state have a standard for existing renewables  
16 like Rhode Island?

17 MR. GRACE: The other states either --  
18 Maine does not -- really none of the other states  
19 in New England have a temporal distinction --  
20 have distinguished between new and existing.  
21 They distinguish between various types.

22 MS. WILSON-FRIAS: Here's what I'm  
23 getting at. When making the certification forms  
24 what state do I go to plagiarize?

1 which -- Option A or Option B which is what PJM  
2 does in the verified gas system. First of all,  
3 let me say that APX's role in PJM is -- we have  
4 built a customized system for PJM gas which is  
5 probably not longer than a month ago and we were  
6 very involved with PJM in the overall market  
7 design, however, we are not the day-to-day market  
8 administrator as we are in the NEPOOL GIS.

9 What PJM does regarding certification,  
10 currently what they do is essentially what is in  
11 Option B. In other words, it's self reporting  
12 from behind the meter generators. However, they  
13 have provided the option via some technology that  
14 we at APX built for them to have a verifying  
15 entity such as what is listed under Option A  
16 provide electronically some data for the GATS  
17 system, however, I wanted to clarify that's the  
18 way things are today and to our knowledge all the  
19 generators that have reported and created  
20 certificates that are not handled by the PJM  
21 settlement system, they have all self reported  
22 which is pretty similar to what Option B has.

23 And just one final statement regarding  
24 the question as to what the other New England

1 states do regarding classification. The closest  
2 that I've seen was in the statute that the State  
3 of Connecticut has issued I believe about a  
4 year-and-a-half ago. And I apologize, I don't  
5 have the exact docket or statute numbers, I can  
6 give you that, but pretty much it was directing  
7 the solution that was utilizing an entity such as  
8 ISO New England which I think is what also the  
9 ISO New England rather the NEPOOL markets  
10 committee has directed via GIS. Work through  
11 that solution and I'll come with that  
12 accommodation.

13 COMMISSIONER HOLBROOK: Thank you very  
14 much. Are there any other speakers? Anyone else  
15 have any final comment? If not, I thank you all  
16 for coming and the meeting is adjourned.

17 (ADJOURNED AT 1:26 P.M.)

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19  
20

21 C E R T I F I C A T E

22

23 I hereby certify that the foregoing is  
24 a true and accurate transcript of the hearing

1 taken before the Rhode Island Public Utilities  
2 Commission, on October 12, 2005, at 9:30 a.m.

3  
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5 \_\_\_\_\_  
6 JO ANNE M. SUTCLIFFE, RPR/CSR  
Notary Public, State of Rhode Island

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