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1 STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
 2 PUBLIC UTILITIES COMMISSION
 3
 4
 5 HEARING IN RE:
 6 RULES AND REGULATIONS TO
 7 IMPLEMENT A RENEWABLE
 8 ENERGY STANDARD
 9 DOCKET NO. 3659
 10 -----/
 11
 12 AUGUST 31, 2005
 13 10:30 A.M.
 14 89 JEFFERSON BOULEVARD
 15 WARWICK, RHODE ISLAND
 16
 17 BEFORE THE COMMISSION:
 18 ELIA GERMAN, CHAIRMAN
 19 ROBERT B. HOLBROOK, COMMISSIONER
 20 MARY BRAY, COMMISSIONER
 21 ALAN NAULT, RATE ANALYST
 22 STEVEN FRIAS, LEGAL COUNSEL
 23 CYNTHIA WILSON-FRIAS, LEGAL COUNSEL
 24

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1 (COMMENCED AT 10:30 A.M.)
 2 THE CHAIRMAN: Good morning, Ladies and
 3 gentlemen. Before we start, I want to point out
 4 that our presence on the dias does not indicate
 5 that we're superior to anyone here because we're
 6 very Democratic in this organization, small that
 7 it be, that is. I don't think I have to explain
 8 it to anybody.
 9 In re: Rules and regulations to
 10 implement a renewable energy standard, Docket No.
 11 3659, notice of technical record session.
 12 Pursuant to the provisions of Section 39-1, 42-35
 13 and 42-46-6 of the Rhode Island General Laws, as
 14 amended, the Public Utilities Commission hereby
 15 gives notice it will conduct a technical record
 16 session on Wednesday, August 31st, 2005 at 10:00
 17 a.m. in the first floor hearing room of the
 18 Public Utilities Commission, 89 Jefferson
 19 Boulevard, Warwick, Rhode Island, for the purpose
 20 of reviewing the report and proposed draft
 21 regulations to implement a renewable energy
 22 standard which was filed by the Rhode Island
 23 renewable energy standard, RES, rulemaking group
 24 on August 16, 2005. The draft regulations

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1 IN ATTENDANCE
 2 WILLIAM LUEKER, DIVISION
 3 DAVID STEARNS, DIVISION
 4 TIMOTHY WOOLF, DIVISION
 5 DENNIS DUFFY, EMI, CAPE WIND
 6 ALBERT BENSON, DOE
 7 ERICH STEPHENS, PP&L
 8 NUBIA PEREZ, CSG
 9 JOHN FARLEY, TEC-RI
 10 CRAIG EATON, FPL ENERGY
 11 ANDREW DZYKEWICZ, EDC
 12 WILLIAM SHORT, RIDGEWOOD POWER
 13 THOMAS ROBINSON, NARRAGANSETT ELECTRIC
 14 LAURA S. OLTON, NARRAGANSETT ELECTRIC
 15 JOHN WARSHAW, NARRAGANSETT ELECTRIC
 16 GERALD M. EATON, PSNH
 17 DOUGLAS HARTLEY, RI PUC
 18 JONATHAN RAAB, RAAB ASSOCIATES
 19 ROBERT GRACE, SEA FOR RI SEO
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 21
 22
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1 represent the work of many parties that will be
 2 affected by the proposed rules and are intended
 3 to assist the Commission in developing and
 4 adopting regulations on or before December 31st,
 5 2005 to comply with the legislative mandate of
 6 R.I.G.L. 39-26-1, et seq.
 7 The RES negotiated rulemaking group's
 8 proposed draft regulations and related documents
 9 are on file for examination at the Commission's
 10 office and also can be accessed at
 11 www.ri.puc.org/eventsactions/docket/3659page.html.
 12 Reference is also made to Chapters
 13 42-35 and 39-1 of the Rhode Island General Laws,
 14 specifically, Sections 42-35-1, 42-35-2, 42-35-3,
 15 42-35-4, 42-35-5, 39-1-1, 39-1-3, 39-1-11,
 16 39-1-18, 39-1-38 and 39-26-1, et seq.
 17 I might suggest, why don't we start
 18 over here and have the parties identify
 19 themselves.
 20 MR. LUEKER: William Lueker, Special
 21 Assistant Attorney General representing the
 22 Division of Public Utilities and Carriers.
 23 MR. WOOLF: Tim Woolf, Synapse, on
 24 behalf of the Division of Public Utilities and

1 Carriers.

2 MR. STEARNS: David Stearns from the
3 Division of Public Utilities and Carriers.

4 MR. DUFFY: Dennis Duffy with Energy
5 Management, Inc., Cape Wind Associates.

6 MR. BENSON: Albert Benson, U.S.
7 Department of Energy Northeast Regional Office.

8 MR. C. EATON: Craig Eaton, FPL Energy
9 and also EDC.

10 MR. STEPHENS: Erich Stephens, People's
11 Power & Light.

12 MS. PEREZ: Nubia Perez, CSG,
13 Conservation Services Group.

14 MR. FARLEY: I'm John Farley from The
15 Energy Council of Rhode Island.

16 MR. DZYKEWICZ: Andrew Dzykewicz with
17 the Rhode Island Economic Development
18 Corporation.

19 MR. SHORT: Bill Short representing
20 Ridgewood Power Management; also the entities
21 Blackstone Hydro, Ridgewood Providence Power
22 Partners and Ridgewood Rhode Island Generation.

23 Those latter three are all generators located
24 within the State of Rhode Island.

1 the record. Mr. Hartley?

2 MR. HARTLEY: Well, I'd like to thank
3 the group. This was a difficult task that
4 required a lot of information in complicated,
5 arcane areas. Our charge, the charge of this
6 group, was to put in place, or to draft
7 regulations for the Commission to put in place to
8 operate a renewable energy standard for Rhode
9 Island which was passed by the General Assembly.
10 The group asked me as the -- its initial
11 facilitator to attempt to find a way to hire a
12 permanent facilitator and we hired later -- got
13 Jonathan Raab on board.

14 Dr. Raab is going to present an
15 overview of the process and the outcome of the
16 process and then we'll welcome, of course, your
17 questions any time you want to ask any. So I'll
18 -- Mr. Raab? Dr. Raab?

19 THE CHAIRMAN: Proceed.

20 DR. RAAB: Just a very brief overview
21 and then we wanted to get right into the meat of
22 the draft regulations. As Mr. Hartley mentioned,
23 regulations were put in place or need to be put
24 in place in order to operationalize the law that

1 MR. ROBINSON: Tom Robinson with
2 Narragansett Electric.

3 MS. OLTON: Laura Olton with
4 Narragansett Electric.

5 MR. WARSHAW: John Warshaw Narragansett
6 Electric.

7 MR. G. EATON: Gerald M. Eaton of
8 Public Service Company of New Hampshire.

9 MR. HARTLEY: Doug Hartley. I
10 represented the Public Utilities Commission on
11 the negotiated rulemaking group.

12 DR. RAAB: Jonathan Raab from Raab
13 Associates. I was the mediator for the process.

14 MR. FRIAS: Steve Frias, Commission
15 counsel.

16 MR. NAULT: Alan Nault, Commission rate
17 analyst.

18 THE CHAIRMAN: I'm Elia Germani,
19 Chairman of the Commission. To my left is
20 Commissioner Mary Bray. To my right is
21 Commissioner Bob Holbrook. You're not any
22 relationship to Craig, are you?

23 MR. G. EATON: No.

24 THE CHAIRMAN: Let me clarify that for

1 was passed by the legislature. That law, in its
2 very most basic form, requires that electricity
3 suppliers in Rhode Island use an increasing
4 percentage of renewable energy resources in their
5 supply mix out into the future. The regulations
6 and the law grew out of another stakeholder
7 process in Rhode Island which was the Green House
8 Gas stakeholder process, and the renewable energy
9 standard was one of the measures in the Rhode
10 Island Green House Gas Plan that saves the most
11 amount of green house gas and so it was a high
12 propriety for that process. So that's where that
13 -- where this originated.

14 However, with any piece of legislation,
15 in order to really operationalize it there's a
16 lot of details that need to be worked out in the
17 regulations. So what you have before you is the
18 effort of this diverse stakeholder group to try
19 and translate the legislation into sufficient
20 detail so that it can be implemented. The
21 stakeholder group came together and met
22 approximately eight times since coming together
23 and with a lot of work with various stakeholders
24 between meetings to move everything forward. We

1 have a list in the back of the cover letter that
2 I've attached of all the group members, and many
3 of the organizations had more than one person
4 participating, and we have their attendance in
5 the -- during the negotiations.

6 We have before you in the report a
7 draft set of regulations and it also has several
8 attachments. The first attachment, Attachment A,
9 is a model compliance form that the group
10 recommends referencing in the rules but not
11 including in the rules so you have a little bit
12 more flexibility to change it from time to time,
13 but this would basically be the form that
14 obligated entities would fill out to show that
15 they're in compliance with the regulations, and
16 as you see, they're fairly detailed forms. Those
17 forms were actually put together by actually
18 Mason from CSG who we hoped would be here, but
19 she gave birth yesterday to a daughter, so Nubia
20 will be filling in for her.

21 Attachment B has a few small technical
22 corrections to the law that the stakeholders
23 recognized as we were moving through in a lot of
24 detail the laws and trying to translate them into

1 regulations and they're technical corrections
2 that the stakeholders recommend that the
3 Commission sponsor a small piece of clean-up
4 legislation that stakeholders would then support
5 to clean those things up.

6 Attachment C and D both have some memos
7 from the various stakeholders that were actually
8 sent to the stakeholder group on the few issues
9 that were dissenting, and so we'll actually get
10 in more detail on those dissenting issues as we
11 go through the document, but that's what's in
12 Attachments C and D.

13 I think what we're intending to do is
14 to go through the draft regulations section by
15 section and during the course of that essentially
16 page by page we'll highlight the very few issues
17 where there was disagreement remaining at the end
18 of the process among stakeholders. We'll let the
19 stakeholders sort of announce what those
20 differences were and give you a chance to
21 follow-up with them with any questions you have.

22 We've also had some questions that
23 Cindy Frias had forwarded to me a couple days ago
24 that she had in doing a very careful read of the

1 draft regulations and we're set up to address
2 each of those questions that Cindy had forwarded
3 to me within the section and we've assigned
4 various stakeholders around the table to sort of
5 take a lead in answering those questions.

6 I also wanted to just point out in the
7 cover letter there's one paragraph right at the
8 end where we talk about a process between the
9 Commission and the Department of Environmental
10 Management on collaborating together as new
11 regulations in other areas come into effect that
12 would require coordination and sort of careful
13 scrutiny as to how they would interact with the
14 renewable energy standards, most notably, the
15 regional green house gas initiative which would
16 set a cap on carbon for the region which should
17 be finalized over the next month or two. We just
18 need sort of a careful review as to how it
19 interacts with the renewable energy standard.

20 Before we start section by section, I
21 just wanted to add my own personal observation
22 which is that the stakeholders really rolled up
23 their sleeves and worked extremely hard to
24 produce these draft regulations that you have

1 before them -- before you, and it really was an
2 attempt to translate the law into regulation and
3 we had to refer often to the law during the
4 deliberations. I think the group was extremely
5 successful.

6 As you see, there are really very few
7 issues where there was an outstanding
8 disagreement. In some places members found the
9 law to be a bit ambiguous and some of the
10 disagreements are trying to interpret the
11 language in the law, the intent behind that
12 language. In other places there was just a
13 substantial amount of flushing out that needed to
14 be done in order to operationalize the law and
15 that's why the regulations are detailed and
16 relatively complex.

17 So with that, I guess I would just ask
18 if there's any broad questions before we go
19 section by section through the regulations.
20 Okay. Bob Grace from SEA for Rhode Island SEO.

21 So just beginning with Section 2, the
22 purpose of the regulations, we're here to just
23 refer directly to the law. Section 3 required a
24 huge amount of work which was to really define

1 all the terms that are used throughout the
2 regulations and what they entail. I think that
3 the first issue that Cindy had raised that we
4 wanted to address was in Subsection 3.6 on
5 eligible biomass where she noted that we added
6 some additional text that was not in the law and
7 flushed it out a bit further and she wanted just
8 a better understanding about what it is that we
9 were doing, and so I'm going to turn it over to
10 Erich Stephens from People's Power & Light to
11 answer that question.

12 MR. STEPHENS: Thank you. As Dr. Raab
13 said, we all try to be I think as true to the
14 original legislation as possible even to the
15 extent of on occasions carrying over typos into
16 the regulations as happened in this 3.6, but
17 specifically, to the question about why the extra
18 language and wording here, there are three
19 reasons why we added additional wording in this
20 section, and I dare say probably in most
21 sections. One was to add clarity to a phrase
22 that -- and provide extra definition to it, and
23 by doing that the idea was to reduce the
24 administrative burden for the Commission so

1 they're not constantly having to revisit issues
2 and also to reduce the expense for developers and
3 ultimately ratepayers. The more clarity in the
4 regulations, the easier it will be to pursue the
5 terms of the RES and meet them ultimately.

6 The third reason was to provide
7 definitions for terms of use in the legislation
8 but aren't clear what they meant, and finally, I
9 think we added additional language when we
10 identified areas where there were problems or
11 potential problems that had come from ambiguity
12 in other jurisdictions or in other settings.

13 So turning to 3.6 specifically, we
14 added the terms, the additional examples of clean
15 wood, yard trimmings, site clearing waste, wood
16 packaging. The reasoning for that was simply
17 because the group agreed that these were
18 additional types of wood that were clearly clean
19 wood, and we all agreed that in order to save
20 somebody from having to come back and ask if they
21 were considered clean wood, we would just spell
22 it out right now, yes, they're clean wood, and we
23 also looked to other jurisdictions, what they
24 were doing in terms of examples of clean wood.

1 Oakridge Labs apparently used these examples as
2 well, so just looking for consistency across
3 jurisdictions to make things easier for
4 everybody.

5 The second area we had to add language
6 was in relation to the term "other clean wood,"
7 and exactly what does that mean, and the whole
8 second paragraph of 3.6 is trying to address
9 that. The other area where we added language
10 was, let's see, I guess it's the last -- second
11 to the last phrase of the first paragraph or
12 sentence, provided that such gas is collected and
13 conveyed, et cetera. What that was addressing
14 was an issue of injecting landfill gas into the
15 existing natural gas infrastructure, pipelines
16 and so on, something that is apparently
17 technically feasible, and in fact, some folks are
18 contemplating doing, but the group felt that
19 given there wasn't enough existing tracking,
20 means of tracking where gas is coming from and
21 experience with injecting landfill gas into the
22 natural gas infrastructure system that at least
23 at this point anyway just to not allow that at
24 all. Just for clarity, and also although some in

1 the group had policy reasons why we should do
2 that as well, but for policy reasons that's why
3 using landfill gas that's been transported over
4 common carriers was not allowed and that's why
5 that language was added in that section as well.
6 Thanks.

7 DR. RAAB: Moving on to Section 3.8,
8 again, there was another question about the
9 language we added at the end to the definition of
10 end use customer, and Bill Short, you were going
11 to briefly explain that.

12 MR. SHORT: Basically, there have been
13 several FERC issues on whether or not a
14 generating unit is subject to taking service
15 retail, whether or not it buys its electricity
16 either from the ISO or from essentially its own
17 plant, whether or not that is a retail sale.
18 These FERC decisions showed that it is not; it's
19 a wholesale sale. We wanted to capture that here
20 in the definition of end use customer so that the
21 RPS percentages would not fall on top of these
22 wholesale trades. We could have left this out.
23 This would have necessitated with respect to
24 Ridgewood and probably FPL, Dominion and the

1 other generators located in the State of Rhode
2 Island coming in and opening a docket and
3 requesting that the PUC rule accordingly that
4 these were wholesale sales, therefore, not -- and
5 not retail sales, and therefore, not subject to
6 the RPS requirements.

7 DR. RAAB: Moving on to Section 3.13,
8 Cindy had asked for some further explanation on
9 why we were using Calendar Years 1995 through
10 1997 and some additional clarifications, and Bob
11 Grace who's joined us since we began from the
12 State Energy -- representing the State Energy
13 Office was going to do that.

14 MR. GRACE: Thank you. The additional
15 language here is actually part of a -- consistent
16 with a number of different things that were added
17 into the regulations to be consistent with the
18 RPSes that were operating more generally in the
19 region. The statute in many ways reflected
20 consistent or identical treatment to what has
21 been done in the Massachusetts RPS regulations
22 and wherever the -- there was a lack of
23 specifics, we looked to develop some regional
24 consistency. So the historical generation

1 baseline approach here mirrors what has been done
2 in Massachusetts where the 1995 to '97 period was
3 used as a reasonable historical period for
4 judging historical baseline above which
5 generation will be considered incremental.
6 That's basically the period immediately prior to
7 restructuring.

8 The other question that was raised was
9 the last phrase of the definition, and this was
10 really added to avoid a critical problem that has
11 arisen in Massachusetts where ambiguity in the
12 statute and subsequent rulings by the
13 Massachusetts Division of Energy Resources
14 resulted in effectively existing renewables being
15 treated and considered as new. It effectively is
16 a very concerning loophole in Massachusetts that
17 continues to be the subject of an ongoing
18 proceeding and a lot of friction. We thought it
19 would be appropriate here to lay out very clearly
20 some language that would avoid that problem here
21 and avoid the Commission having to grapple with
22 those same issues by making it very clear what
23 the definition of incremental generation was,
24 closing the loophole so that existing generation

1 could not somehow be considered new. Thank you.

2 MR. FRIAS: Is that existing generation
3 as of 95/97 or is that of generation of right
4 now, today?

5 MR. GRACE: That is both. This tends
6 to apply in most circumstances and the condition
7 in Massachusetts was for biomass generators that
8 had been in operation prior to '98 as far back as
9 they started developing biomass in New England
10 where if the biomass plants were able to retrofit
11 or change their fuel use and become eligible when
12 they previously hadn't, the baseline had been
13 assumed in Massachusetts to be zero because the
14 amount of generation during '95 to '97, even if
15 the plant was operating fully, wasn't considered
16 eligible in Massachusetts. They had assumed that
17 effectively there was no baseline. So while you
18 could have a plant that was operating fully
19 change some aspect of its fuel use or emissions
20 or conversion technology and all of a sudden
21 without having actually any change in the amount
22 of generation, it was considered to be all new.
23 So that was effectively the loophole we were
24 trying to close.

1 MR. FRIAS: And so basically any
2 renewable generation existing as of -- you know,
3 in the 95/97 time frame would not be considered
4 incremental or new generation under this RPS. Is
5 that basically what you're trying to close?

6 MR. GRACE: Correct. So it's only the
7 amount above the amount of generation during that
8 baseline period would be considered incremental.

9 MR. FRIAS: Okay.

10 COMMISSIONER HOLBROOK: And that
11 baseline, in other words, is a three-year
12 average, '95, '96 and '97?

13 MR. GRACE: Correct.

14 COMMISSIONER HOLBROOK: If you look at
15 those numbers, would it be a rising number each
16 year?

17 MR. GRACE: It tends to differ. Some
18 plants were actually shut down during that
19 period. Other plants operated at various levels.
20 There's no obvious trend. It appeared -- I was
21 involved in the derivation of this in
22 Massachusetts as well. We looked at that period
23 and it appeared to be representative.

24 DR. RAAB: So that brings us to the

1 first issue in which we did not have a consensus,
 2 and I think it had to do with interpreting the
 3 law and that builds on the issue that Bob was
 4 just talking about about when you would -- what
 5 you would credit as incremental generation in
 6 circumstances for both intermittent renewable
 7 resources and non-intermittent renewable
 8 resources, and although the group agreed and
 9 interpreted the legislation that there basically
 10 would need to be capital investments made to
 11 increase the electricity generation by at least
 12 ten percent, the disagreement among the group was
 13 once you have met that threshold, whether you
 14 would get credit for all the new incremental
 15 generation or only stuff that was above the ten
 16 percent threshold, and so I was going to turn it
 17 over to representatives from each side just to
 18 briefly state the position so you understand it.
 19 Bob, you were actually going to do one and Dennis
 20 Duffy was going to do the other.

21 MR. GRACE: The language included in
 22 here, the primary version represents the majority
 23 of the group's interpretation of the statutory
 24 language that effectively takes incremental

1 output of generation units that have increased
 2 their generation greater than ten percent, that's
 3 the statutory language, and the plain language
 4 meaning as it was taken and discussed by the
 5 group was that the intent was for all of the
 6 incremental generation above whatever the
 7 historical baseline would be to become eligible
 8 so long as the generators had met the test of
 9 increasing its generation, its annual output
 10 capability by at least ten percent.

11 While the other interpretation Mr.
 12 Duffy will describe may also be a reasonable one,
 13 the majority of the group simply felt that was
 14 not what the statute allowed.

15 DR. RAAB: Mr. Duffy?

16 MR. DUFFY: Thank you. Just very
 17 briefly, it's a very simple question of statutory
 18 interpretation. We look at the operative phrase
 19 for eligibility for incremental resources as the
 20 incremental output of generation units using
 21 eligible renewable energy resources that have
 22 demonstrably increased generation in excess of
 23 ten percent.

24 Now, we take that to mean that not only

1 would there have to be a capacity expansion of
 2 the unit of ten percent, but also an actual
 3 increase of ten percent above the baseline in the
 4 energy produced, and that's the real difference.
 5 We would make the threshold for eligibility on
 6 that increment be a ten percent increase in the
 7 capacity of the unit but also an actual ten
 8 percent increase in the energy output, and that's
 9 really the extent of our difference of opinion.

10 DR. RAAB: I promised any stakeholder
 11 that wanted to add something have that ability if
 12 they felt it necessary.

13 MR. SHORT: Let me pass these up so
 14 they can read these comments as I go through them
 15 on the ten percent. I'd like to speak in favor
 16 of essentially what Dennis has said with a
 17 clarification.

18 DR. RAAB: Go ahead.

19 MR. SHORT: My name is Bill Short, and
 20 basically, I'd like to clarify I think what
 21 Dennis was saying and make it more clear with
 22 respect to Section 3.22(v) and then I'll speak on
 23 3.22(vi). We believe that essentially there
 24 should be what we call a 110 percent test, and

1 that's actually the first item in the handout
 2 that I've passed out. Sorry I didn't make enough
 3 copies for us all, but basically, we have -- we
 4 believe that the generator should have to
 5 demonstrate that it made 110 percent above its
 6 historical baselines. That's the absolute
 7 minimum. In addition to that other comment that
 8 Dennis has hit upon, and he largely put in
 9 himself, was that we have to demonstrate an
 10 increase in efficiency and/or an increase in
 11 capacity. Those are the two tests. That's how
 12 we interpret and read the statute.

13 For example, the Johnston Landfill
 14 which we own has an historical baseline of about
 15 87,000 megawatt hours. In order for us to get
 16 any new renewable generation credited from that
 17 facility, No. 1, we have to demonstrate either an
 18 increase in capacity or an increase in
 19 efficiency. Okay? That's the first and most
 20 important thing. Since we have a relatively
 21 constant fuel supply, we then have to demonstrate
 22 that we could produce another ten percent of
 23 energy above that. That's roughly 8,700. To the
 24 extent we generate above that 87,000 plus the ten

1 percent above, that we would get new renewable
2 certificates above 87,000. Okay?

3 The -- 3.22(vi), all we have asked for
4 here, and we own 16 hydro electric sites
5 scattered around New England, so we're very
6 concerned that this issue be adopted also. We
7 need to supply a three-year trailing average to
8 the current year's production. Our variation
9 from our hydro electric sites is as much as
10 30 percent in any one year. So we have to have
11 essentially the increase in efficiency, the
12 increase in capacity as well as also a trailing
13 three-year ten percent increase in generation and
14 we've added that in yesterday to the proposed
15 language here. It captures what we think is the
16 spirit. We believe that we have to produce this
17 ten percent above in order to get any credit
18 above the historical baseline. Thank you.

19 DR. RAAB: I think Bob Grace wanted to
20 clarify one thing and then if the Commissioners
21 had any follow-up questions.

22 MR. GRACE: Just as a matter of
23 clarification, I believe the group did reach
24 consensus on several of the points that Mr. Short

1 mentioned in terms of the need for an efficiency
2 improvement or additional capacity. I think the
3 real distinction between those two positions
4 comes down to whether the amount of energy
5 between 100 and 110 percent is eligible, and
6 that's really the only disagreement or difference
7 between these two positions, and I think Mr.
8 Duffy and I would agree that it really comes down
9 to statutory interpretation.

10 MR. DUFFY: I would agree.

11 DR. RAAB: Any further questions on
12 this?

13 MR. FRIAS: Not myself, and I don't
14 think the Commissioners have been involved in
15 this level of nuance.

16 THE CHAIRMAN: I want to know what the
17 economic differences are, because I want to know
18 what's behind the words? Okay? Can someone
19 address that?

20 MR. SHORT: What the economic --

21 THE CHAIRMAN: Yes. Why is one group
22 taking one position -- I mean, it's all
23 economics. Let's not kid ourselves.

24 DR. RAAB: John, go ahead.

1 MR. FARLEY: I can address that from
2 the ratepayer point of view. To the extent that
3 you eliminate generation from being eligible for
4 new renewable resources, you create more scarcity
5 for that product which the consumer has to buy
6 and to the extent there's scarcity, that raises
7 the price and in the event that there's overall
8 scarcity, it means that the alternative
9 compliance payment which is going to be in excess
10 of \$50 per megawatt hour would be paid by the
11 consumers. So this to the extent that it's
12 reasonable to interpret the statute such that
13 that increment between 100 and 110 is, in fact,
14 eligible, it increases the amount of supply
15 available in the marketplace to be purchased.

16 DR. RAAB: I'll just see if any other
17 stakeholder wanted to add that hasn't added yet.
18 Okay. Dennis?

19 MR. DUFFY: Just very briefly in
20 response to the Chairman's question. I think
21 John has accurately described the implications of
22 any expansion or contraction of eligibility. The
23 way really to look at it, though, is -- one way
24 to look at it is does it drive down the price to

1 the benefit of the consumer, but from the flip
2 side, from the -- from people trying to develop
3 renewable resources and attract capital to the
4 market, a reduction in the value of renewable
5 credits through expanding eligibility can be
6 interpreted as a weakening of the price signal
7 that's meant to incentivize new investment, and
8 that's the real purpose of the act.

9 MR. FRIAS: Could I ask a
10 clarification, because I hear about trailing per
11 year averages and capacity. I want to narrow the
12 issue a little bit clearer for me at least.

13 Basically, the difference, Mr. Duffy, you want
14 the credit for anything above 100 to 110?

15 MR. DUFFY: No. My position is that
16 your capacity should qualify as eligible only if
17 it's above the 110 percent. That's my position.

18 MR. FRIAS: Thank you. Bob, your
19 position is you should be eligible if it's 101,
20 you get the credit for the one?

21 MR. GRACE: Yes. So long as it has met
22 the test, the statutory test that it has to
23 increase its ability to produce by at least ten
24 percent, then any given year anything above 100

1 percent would be eligible.

2 MR. FRIAS: So say you're basically --
3 I'll get to you in a second. Basically it's sort
4 of I make -- let's say I'm 111. Basically under
5 Mr. Duffy's you would only get credit for that
6 last point --

7 MR. DUFFY: Correct.

8 MR. FRIAS: -- above 110. While under
9 your scenario, Mr. Grace, it would be you get
10 credit for everything above 100 through the 111.

11 MR. GRACE: That's correct.

12 MR. FRIAS: That made my math a lot
13 simpler. I'm not an economist.

14 THE CHAIRMAN: What's the purpose of
15 the ten percent in the statute then? What's the
16 purpose of it?

17 MR. FARLEY: Well, I think the purpose
18 of it is to eliminate the noise factor. If
19 everybody is 101 or 102, it's arguable that they
20 really have an increased capacity, so it's a
21 threshold to assure that there's been a
22 substantial increase, and according to our point
23 of view, everything above its historic should be
24 as incremental new.

1 given whatever its input. So if it was a hydro
2 plant with the same amount of rainfall would
3 produce at least ten percent more than it would
4 have in the past, for example. And once that
5 certification step had been made, then there
6 would be a simple determination of what
7 historical generation would be, there would be a
8 number, X megawatt hours, and simply in every
9 year you could compare the actual production
10 against that X megawatt hours, and if it exceeded
11 that, then the excess would be considered
12 eligible. I guess I'd like to reiterate that I
13 don't think the group as a whole felt strongly
14 one way or the other as to whether one position
15 was better than the other, just the majority of
16 the group seemed to feel that the more accurate
17 interpretation of the statutory language was the
18 position that I've been asked to represent.

19 COMMISSIONER HOLBROOK: And the
20 economic benefit of having credit for more rather
21 than less is what?

22 MR. GRACE: It would tend to be lower
23 cost to ratepayers.

24 MR. FRIAS: Just to ask more about this

1 MR. SHORT: Basically, our position is
2 somewhat in the middle. It's roughly -- let's go
3 back to the example of 100, 110 and 111 and 101.

4 THE CHAIRMAN: Are you the Justice
5 O'Connor in this group?

6 MR. SHORT: I'm the Justice O'Connor in
7 this group. As I read Mr. Grace's position, one
8 -- if you produced 101, you get one. Under Mr.
9 Duffy's position and my position, you produce
10 101, you get zero. What we say is that you have
11 to get to 110 in order to get anything above 100.

12 COMMISSIONER HOLBROOK: Mr. Grace, did
13 you have a caveat on your position so that in
14 order to get the one if you do 101, something
15 else has to occur as far as efficiency is
16 concerned?

17 MR. GRACE: Effectively the way that
18 the majority of the group envisioned that this
19 would work was a two-step process. Effectively a
20 plant would have to demonstrate to the Commission
21 during the verification step that it had made the
22 necessary changes to efficiency or capital
23 improvement that would allow it to increase its
24 output in any given year by at least ten percent

1 economic scenario. Basically, you'd make more
2 renewable sources eligible for the RPS standard
3 if you had this -- what I call 110 retro back to
4 101, right?

5 MR. GRACE: I think the number of
6 sources or the number of plants would be exactly
7 the same. You still need to meet the basic test
8 of having increased, but once that number of
9 plants has been certified, you would have more
10 renewable energy credits or certificates under
11 the position that I've described.

12 MR. FRIAS: Therefore, it would be
13 easier for -- it would be more likely there would
14 be -- that we'd be reaching the statutory
15 thresholds every year under your scenario.

16 MR. GRACE: There would certainly be
17 more supply, so I guess you're statement would be
18 accurate.

19 MR. FRIAS: I'm trying to figure out
20 what the bottom line is on this. So under your
21 scenario there's a greater likelihood using the
22 110 retro back to 101 of reaching the statutory
23 threshold. Mr. Duffy, your comment is you're
24 talking about the economics of it from a capital

1 investment perspective.

2 MR. DUFFY: Right.

3 MR. FRIAS: What is the -- what is your
4 concern about not -- what's the problem from a
5 capital investment perspective?

6 MR. DUFFY: And the question I was
7 responding to is what's the real economic impact
8 here. I think that's what we're getting to. Any
9 time there's a question as to widening or
10 tightening eligibility, it goes right to the
11 value, which obviously affects the price that the
12 consumers will pay, but it also affects the
13 revenues that an investor in this field would
14 see. So I mean, that's ultimately where we come
15 down to the two sides of the same coin. Not only
16 do we want there to be sufficient price signals
17 to be able to attract capital, but we're also
18 very concerned that there be a stable and
19 predictable level of pricing in these markets,
20 and one of the places in other jurisdictions
21 where we've seen a lot of uncertainty is when --
22 the extent to which older plants are able to do
23 retrofits or rehabs and become eligible. So to
24 the extent we can be as clear as possible on that

1 point, we think it's -- it allows us to give
2 greater comfort and clarity to our lenders.

3 DR. RAAB: If there are no other
4 questions from the Commission on this, we'll move
5 on. The next question you had was on Section
6 3.26 and 3.28. We added a term, prime mover,
7 which was not in the legislation, and we were
8 asked why we had done that, and to respond to
9 that, Gerald Eaton from Public Service New
10 Hampshire was going to explain that.

11 MR. G. EATON: Good morning. Public
12 Service Company of New Hampshire owns and
13 operates a generating station in Portsmouth, New
14 Hampshire that has three coal fired units of
15 50 megawatts. We're currently building a new
16 boiler, or Unit No. 5 at Schiller which will burn
17 wood chips, and much of what the group worked on
18 was what to define a new generating unit to be.
19 The statute says it comes on line after 1997,
20 however, this unit when it's completed will have
21 a 50-year old turbine generator and a brand new
22 boiler. We're building the boiler out in open
23 space and at the beginning of the year we will
24 turn off the old coal boiler and essentially pipe

1 the steam from the new boiler into the existing
2 turbine generator, so is that a new generating
3 unit or not?

4 So that in Section 3.21 there's quite a
5 bit of detail of what constitutes a new
6 generating unit and we -- our project fits under
7 the repowered generating unit which is defined as
8 -- in Section 3.21. And in order to be a
9 repowered generating unit you have to replace
10 your prime mover, and in our case for a biomass
11 facility we're replacing the entire boiler and
12 making a substantial investment, especially
13 compared to a plant that's -- that's been
14 depreciated since 1957 with capital improvements
15 but it's still pretty much depreciated, but it's
16 going to be a large investment and we'll meet the
17 tests in Section 3.27 of increasing our tax basis
18 and also doing it in compliance with emission
19 rules.

20 So the prime mover is what an existing
21 generating unit has to replace in order to be
22 considered to be a new generating unit and making
23 the substantial investment that's necessary and
24 promoting new technologies and not necessarily

1 rewarding existing units for just putting a paint
2 job on the plant and qualifying as a new unit.

3 THE CHAIRMAN: How much -- what's the
4 dividing line between new and not new?

5 MR. G. EATON: I think at least for our
6 plant is we're changing the fuel that we're using
7 and we're making a substantial investment to do
8 it. It's not simply -- our boilers right now are
9 capable of burning both residual fuel oil and
10 coal. So therefore, if for some reason one of
11 those fuels was considered to be renewable, just
12 without making any investment, we become eligible
13 to receive renewable energy credits out of that
14 unit. But by making a substantial investment, by
15 replacing essentially the driver of the steam
16 that makes the energy in the turbine and using a
17 biomass fuel that's eligible, that's the dividing
18 line. And you can use existing electric
19 infrastructure such as the turbine and the
20 electric generator, but essentially, you're
21 switching over from a non-renewable source to a
22 renewable source or replacing the existing
23 renewable source with substantial investment that
24 qualifies as a new unit.

1 MR. SHORT: May I speak?

2 DR. RAAB: Were there any other
3 questions on that?

4 COMMISSIONER HOLBROOK: Would the
5 boiler be any different if you had a different
6 fuel? I mean, you're switching from one source
7 to another by changing from, what, coal to wood
8 chips, and you say you're putting in a new
9 boiler, and that should qualify as an investment.
10 But if you -- I mean, what does the boiler do?
11 It creates a steam that runs the turbine.

12 MR. G. EATON: Yes.

13 COMMISSIONER HOLBROOK: I'm just trying
14 to see if that's something unique or if that's
15 not so unique.

16 MR. G. EATON: Well, it's --

17 COMMISSIONER HOLBROOK: What is the
18 boiler -- I guess my question is what does the
19 boiler have to do with the conversion of your
20 source of fuel from coal to wood chips?

21 MR. G. EATON: Well, there's
22 improvement in efficiency which is required by
23 other states as well that --

24 COMMISSIONER HOLBROOK: But would that

1 question. If you're changing a boiler which can
2 burn either coal or wood chips but now you're
3 going to be burning wood chips and therefore it
4 becomes renewable. Is it that?

5 MR. SHORT: No, that's not it.

6 MR. G. EATON: No. The boiler today
7 can burn coal or oil.

8 THE CHAIRMAN: Okay.

9 MR. G. EATON: We are putting in a wood
10 fired boiler as a commitment to renewable energy
11 to purchase wood chips from New Hampshire
12 suppliers. As many of our biomass facilities are
13 coming to the end of their 20-year rate orders,
14 it's not known whether they will continue. So
15 there's a wood chip industry in New Hampshire
16 that Public Service Company is also supporting
17 through this project. We're lowering emissions
18 which we need to do. It will produce far less
19 sulfur dioxide, nitrous oxide than coal does and
20 we may not replace that boiler absent this market
21 and absent these other considerations, because
22 we're not increasing our generating capacity, we
23 may not replace that boiler. If at some point
24 it's more expensive to replace it, then -- and

1 be the same result if you continued to use coal
2 instead of switching to wood chips?

3 MR. G. EATON: There would be an
4 improvement in efficiency but it would not be a
5 renewable fuel, and therefore, would not qualify
6 for renewable energy RECs to be sold in these
7 markets in New England. It's a change over to
8 the fuel and efficiency and lower emissions
9 resulting from that so we're making substantial
10 improvement in emissions as well as efficiency
11 improvements by having a fluidized bed boiler
12 burning wood after the project is complete.

13 THE CHAIRMAN: Is that a question we
14 must consult with St. Thomas Acquin on?

15 MR. G. EATON: No. It's a process
16 where we would -- once the plant is completed, we
17 would apply to be certified as an eligible
18 generating unit to sell RECs.

19 THE CHAIRMAN: To put Commissioner
20 Holbrook's question maybe the same but a little
21 differently, you're changing the boiler which you
22 would have changed anyway to make it more
23 efficient. What's the significant change that's
24 going on here, real significant? Let me ask this

1 prices the product out of the market. The
2 renewable energy market and the RECs that we can
3 generate makes this a cost effective project for
4 our customers as well as our company.

5 DR. RAAB: I think Bill Short and Bob
6 Grace wanted to add something to this.

7 MR. SHORT: With respect to what Public
8 Service New Hampshire is doing, they're taking a
9 conventional 50 megawatt coal fired plant which
10 essentially has a coal fired boiler which can
11 burn oil in lieu of essentially the coal, the
12 coal is pulverized, blown in and combusted, and
13 obviously, the gasses go up to the top of the
14 furnace and they heat up the tubs. That's being
15 replaced. Adjacent to it they're constructing a
16 fluidized boiler, totally different design. They
17 will feed in the wood chips, they'll sit on top
18 of a molten bed of sand, they'll be combusted.
19 You could burn coal. You're also able to feed in
20 along with that things like lime so you control
21 sulfur dioxide emissions. Because they're
22 switching from coal to wood, the sulfur dioxide
23 is diminished. Given that it's a fluidized bed,
24 emissions will be reduced dramatically from the

1 boiler that they currently have. In addition to
2 that the facility will also contain air pollution
3 control facilities such as SNCR, that's a
4 selective non-catalytic reducer and that's a NOX
5 control device to reduce the NOX emissions below
6 certain levels. Roughly this boiler today could
7 produce five pounds of NOX an hour. It will
8 produce about one pound of NOX.

9 MR. HARTLEY: If the Commission would
10 like to see some wood chips, it just happens that
11 we have some handy.

12 MR. SHORT: This boiler conversion
13 represents a major technological advancement in
14 New England for the combustion of wood and it
15 would be if we were building old coal fired power
16 plants where we would be taking coal fired power
17 plants. It's a meaningful reduction in our
18 emissions over what this plant does currently
19 emit and it's a meaningful reduction over what
20 1980s technology stoker plants, wood fired stoker
21 plants. I think it's a good idea, what they've
22 done.

23 COMMISSIONER HOLBROOK: Could you
24 convert to wood chips if you did not convert the

1 boiler?

2 MR. G. EATON: We could convert to wood
3 chips, however, the 1980's technology would not
4 qualify us for renewable energy certificate sales
5 in Massachusetts so the technology change is
6 significant, that it has to be -- you can't go
7 from a gas guzzler to a wood guzzler, you have to
8 get a more efficient boiler out and that's the
9 difference between the stoker technology to the
10 fluidized bed.

11 COMMISSIONER HOLBROOK: In order to get
12 all the benefits and all of the efficiencies from
13 converting from coal to wood chips the new boiler
14 really from a technological point of view and
15 efficiency point of view is essential. Is that a
16 fair statement?

17 MR. G. EATON: Yes, in order to
18 participate in the market across the region.

19 COMMISSIONER HOLBROOK: Just out of
20 curiosity, what is the value of the investment to
21 the conversion?

22 MR. G. EATON: In addition to the
23 boiler we're building a wood processing facility
24 which was not there before that has the

1 capability of unloading three trucks at a time
2 and we're spending \$75 million to do that
3 combining the project of the boiler and the wood
4 processing facility. And we will probably burn
5 400,000 tons of wood a year.

6 MR. GRACE: Chairman, Commissioner, if
7 I could elaborate on this, I think perhaps
8 addressing this line of questioning more
9 generically might be illustrative. The reason
10 that the group came up with this language on
11 repowering more generally which the prime mover
12 language is only a part is returning to this
13 primary question of new versus existing which has
14 tended to be perhaps the most controversial in
15 other renewable portfolio standards, and the
16 group attempted to and did reach consensus on a
17 bright line that would define what constituted
18 new or what did not constitute new.

19 It's widely accepted that a repowering
20 is effectively a new plant on the site of an
21 economically obsolete plant, that it's
22 effectively societally efficient to use some of
23 the ancillary facilities, the site, the
24 transmission and other facilities rather than

1 having to site a green field plant where there
2 had not been one previously. Generally, the
3 repowering standard effectively we borrowed from
4 language that has been used and adopted in
5 California under similar circumstances to
6 identify what really constituted a new facility,
7 and in doing so I think we have tried to simplify
8 things for the Commission so that you would not
9 have to deal with a plant-by-plant analysis which
10 has considerable ambiguity. Here we've got a
11 tried and tested bright line that the entire
12 group was able to get consensus on.

13 DR. RAAB: So that concludes what we
14 had on Section 3. Unless there are any other
15 questions from the Commission, we'll move on to
16 Section 4.

17 Section 4, there was just one issue
18 flagged for us and that has to do with
19 maintaining the standards for no less than 10
20 years if at some point they're going to be
21 canceled, and Bob Grace was going to explain why
22 that language was added.

23 MR. GRACE: Thank you. The language
24 that was added here effectively was intended to

1 elaborate on the term in the statute
 2 indefinitely, that the standards would be in
 3 place indefinitely after they -- after the
 4 escalation had ceased until the Commission
 5 determined that such maintenance was no longer
 6 necessary. The reason for this was to inject
 7 some clarity and reflecting attempt in the
 8 statute to remove the specter of regulatory
 9 uncertainty. That type of regulatory uncertainty
 10 as to exactly when the standard might be
 11 eliminated or decreased creates a significant
 12 disincentive for investment in new renewable
 13 plants which works to the detriment of both
 14 investors, and ultimately, to ratepayers who are
 15 disadvantaged by having less generation and
 16 therefore a tighter supply, higher costs.

17 The approach here reflects best
 18 practices in studies of portfolios nationwide and
 19 effectively creates the ability for investors to
 20 know a minimum amortization time for their
 21 investment. In the absence of such language,
 22 investors verified answers, particularly debt
 23 financiers would always have the fear that one
 24 year later after reaching the last of the

1 increases the RPS could be done away with and
 2 that they -- most of the plants are very capital
 3 intensive, require debt and amortization of their
 4 fixed costs over a fair period of time. Without
 5 that certainty that they would have that period
 6 of amortization, it would be very difficult to
 7 attract investment into these plants.

8 To give an example of what the absence
 9 of this language might create as you approach
 10 20 -- 18, 20, 19 years, the incremental demand,
 11 the targets step up by a significant percentage,
 12 investors in plant to meet that percentage would
 13 have no confidence, no -- nothing to rely upon to
 14 suggest that they would be able to sell those
 15 certificates for more than a year or two and in
 16 that environment you would either have extremely
 17 expensive cost of compliance or to building at
 18 all. So we are attempting to have some clarity
 19 here to reflect the objective.

20 THE CHAIRMAN: Does that conflict with
 21 the Commission's ability to back off on the
 22 standards?

23 MR. GRACE: No. The statutory ability
 24 to back off on the standards really reflects a

1 slowing down of the increases. The statute does
 2 not allow decreasing the standards from where
 3 they're reached; it simply allows stretching out
 4 the time line or delaying further increases. So
 5 there is the difference between delaying further
 6 increases versus actually decreasing from the
 7 percentage standards.

8 COMMISSIONER HOLBROOK: Does that mean
 9 if the market doesn't respond, then the target
 10 date of 2020 could be pushed off to 2023 or 2025?

11 MR. GRACE: The language pertaining to
 12 that is in the previous paragraph, 4.4. The
 13 statute has identified two periods of time to
 14 look at the dynamics of supply/demand and make
 15 those decisions as to whether to delay the
 16 increases.

17 COMMISSIONER HOLBROOK: I'd be
 18 surprised if there's an answer to this question,
 19 but -- and I can appreciate the work that has
 20 gone into this effort. Does anybody have any
 21 idea of the total incremental cost of the program
 22 of the mandate from the legislature, I mean, to
 23 achieve a goal in 2020 of 16 percent? Does
 24 anybody have any idea how much this will add

1 incrementally to the cost of power to ratepayers?
 2 Is it a billion dollars? Is it \$20 billion? Is
 3 it -- has anybody attempted to make an estimate?

4 MR. GRACE: I believe the -- there were
 5 analyses done at the time that the model
 6 legislation was developed by Tellus Institute
 7 although the ultimate legislation reflects a
 8 different set of rules and that was several years
 9 ago so the circumstances are different. I
 10 wouldn't put an overly large amount of credence
 11 in that. I think the answer is we know that the
 12 costs are bounded between the alternative
 13 compliance payments, ACP, in the statute and zero
 14 and they could be anywhere between those. Over
 15 time I know Mr. Short has been involved in some
 16 analysis of supply and demand and I'm -- as I
 17 have in the past. These things consistently
 18 shift. I don't know if there is an answer, but I
 19 notice Mr. Short wanted to chime in on that.

20 MR. SHORT: With respect to the cost,
 21 it's clear that if -- essentially if you only
 22 look at essentially what the certificate says,
 23 those ACP payments, maybe it looks like a large
 24 cost. Offsetting that cost is obviously

1 increased capacity which -- increase in supplies
2 which will probably be offered to the market at a
3 zero cost and therefore essentially save all of
4 us reduced energy costs, improved air emissions,
5 for example. These all factor in as well as also
6 but not least the fact that fossil fuel that is
7 currently being burned in power plants will be
8 available to fuel our homes and factories.

9 When you look at those offsetting
10 values, the cost of RPSes have come in
11 essentially, and New York was the best example,
12 was six percent RPS. When factored across the
13 board under a \$4 cost of gas was a one to two
14 percent increase in retail rates. Under a high
15 cost of gas and that cost of gas was at \$6 an
16 mcf, that cost basically was cut in half, so it
17 was roughly less than a one percent increase. If
18 you go to today's cost of natural gas, probably
19 the RPSes have net benefits, not net costs to the
20 consumer. We may have no other choice to go down
21 these roads in order to minimize the cost impacts
22 to ratepayers over the next 10 to 15 years.

23 MR. FRIAS: Just a general question to
24 follow-up on what Commissioner Holbrook was

1 asking, then I have another one to get to the
2 point of this paragraph. We understand the RPS
3 was passed by the legislature, they weighed the
4 costs and benefits and costs and all the pluses
5 and minuses. That's not what I think
6 Commissioner Holbrook's question is. If the
7 supply does not emerge, this is the question, if
8 the supply does not emerge from the renewable
9 side, what is the estimated cost if we have to do
10 all these compliance costs? I mean,
11 Massachusetts is having some problems with
12 meeting its RPS standards. Everybody at the
13 table knows that. So what is the estimated cost
14 if the renewable -- we have a party and nobody
15 comes? Okay.

16 MR. FARLEY: I'd like to take a stab at
17 it because some of our members are going to be
18 paying that. If one assumes that we're in
19 alternative compliance for a good portion of the
20 incremental cost, and I think that's not an
21 unrealistic at least conjecture because, in fact,
22 the increase in Rhode Island far exceeds the
23 increase in percentage over what's currently
24 available for these other states that have used

1 these examples. So if one were to just simply
2 take that 16 percent and apply it to the gigawatt
3 hour consumption in Rhode Island which will be
4 growing over time and also the alternative
5 compliance dollar per megawatt hour which I
6 believe initially was at \$50 but increases with
7 the cost of living, one can conservatively
8 estimate that the incremental cost by, say, 2018
9 can be something in the order of \$100 million a
10 year of incremental funds from ratepayers.

11 Now, I agree with Mr. Short. If, in
12 fact, that money is being targeted to influence
13 incremental generation, then it will be offset by
14 the benefits of that generation, however, if it's
15 not, then it is questionable what benefits are
16 being accrued, and therefore, it really is a cost
17 without an offsetting benefit and that's why it's
18 so key that this is designed towards bringing new
19 incremental generation and making this a market
20 that works.

21 MR. GRACE: Sir, the answer to your
22 question is a calculation that I have made in the
23 past for the Standard Energy Office. I do not
24 have those figures with me here but I'd be happy

1 to provide them.

2 MR. FRIAS: The question I have for
3 you, Mr. Grace, at the end, so I can understand
4 this last paragraph, or last phrase in it. In no
5 event will the standard be maintained for less
6 than ten years. Is it basically saying that come
7 the year 2020, the Commission, regardless of
8 anything else, is required to keep this standard
9 going through 2030?

10 MR. GRACE: That would be correct.

11 MR. FRIAS: And the legislature
12 intended this to be in effect through 2020,
13 right, at least, or indefinitely?

14 MR. GRACE: The legislature had
15 intended for this to be in place through 2020 and
16 then maintained indefinitely until the Commission
17 found that such -- that maintenance no longer was
18 required.

19 MR. FRIAS: Basically your request to
20 the Commission is please tie your hands for 2020.
21 I'm just asking you.

22 MR. GRACE: I think that is a fair
23 representation.

24 MR. FRIAS: And that I just wanted to

1 clarify.

2 THE CHAIRMAN: That's the question I
3 asked earlier. Were we restraining ourselves and
4 the answer then was no, but now it's yes.

5 MR. FRIAS: When you do
6 cross-examination, sometimes it comes out that
7 way. So basically, the legislature intended this
8 to be in effect 2020 and gave the Commission
9 discretion after that, but this proposal would
10 tie our hands for at least ten years every year
11 subsequent to that. So if we do nothing in 2022,
12 it's 2032 and henceforth, is that correct?

13 MR. GRACE: That is correct.

14 MR. FRIAS: That's all I needed to
15 know. Sorry.

16 DR. RAAB: Something else on this?

17 MR. SHORT: I'd like to give everyone a
18 firsthand example of what I call this type of
19 sunset that Bob Grace has tried to highlight for
20 us and essentially tried to avoid. In the
21 Connecticut RPS they have -- their DPUC has
22 ordered -- has ruled that their RPS sun sets on
23 December 31st, 2010. That specific question was
24 asked by the Union of Concerned Scientists in the

1 that because not only would it give you surety as
2 to the duration but it would also give you surety
3 as to the level of compensation for a longer
4 term.

5 MR. C. EATON: We concur with that
6 also.

7 MR. FRIAS: I know you're going to get
8 there. I'm sorry. We were talking about
9 long-term costs and that just came to my mind.

10 MR. SHORT: Yes. We will have another
11 set of nuances to discuss.

12 DR. RAAB: So moving forward to Section
13 5 on eligibility, the group was in complete
14 agreement on the language and no questions have
15 been posed to us at this point. So if there
16 aren't any other questions on eligibility, we'll
17 move on to Section 6.

18 Section 6 deals with certification, and
19 this brings us to the second issue where we
20 didn't reach complete agreement and Erich
21 Stephens was going to talk about what the issue
22 is and lay it out for you and also then describe
23 why his group was representing one position and I
24 will turn it over to somebody else to represent

1 rulemaking in 03-1018 or 19, that's the docket
2 number, and that's precisely what they came out
3 with. Therefore, with respect to Ridgewood's
4 interest, to the extent we build any generation
5 in New England to serve the Connecticut RPS
6 market, we also make sure that that generation
7 has to be qualified in Massachusetts, for
8 example, and then Massachusetts new or the Rhode
9 Island new RFP requirements. Otherwise, in 2011
10 our market, if it's only a Connecticut market,
11 disappears completely. We could never raise
12 money from equity investors, and I am sure that
13 the other people who are looking to develop could
14 never raise a dime from debt investors if they
15 had such a short time horizon to recover their
16 investment plus also a profit on that. Thank
17 you.

18 MR. FRIAS: Could long-terms contracts
19 address that issue better than that?

20 MR. SHORT: Oh, yes, with respect to if
21 you had an RPS end in 2010 versus a ten-year
22 contract you sign in 2008, yes. I think that's
23 your only option.

24 MR. DUFFY: I'd like to concur with

1 the other position.

2 MR. STEPHENS: Thank you. If I could,
3 I did a diagram to try to explain a somewhat
4 complicated issue, if I could just pass this up.
5 When you see this diagram, you'll see that
6 there's Option A at the top, Option B at the
7 bottom. Let me start by explaining what the
8 purpose of all this language is. The legislation
9 allows for -- well, behind the meter and even off
10 the grid generation to account towards the
11 renewable energy standard so long as that
12 generation is located here in the state.
13 Presumably these will be relatively small
14 generators, PB systems on homes and businesses
15 and so on, for example. So the question becomes
16 how to account for the generation from these
17 units in a way that is cost effective for the
18 generator and in a way that's efficiently
19 administered and overseen both for the sake of
20 reducing administrative burden for the Commission
21 but also to reduce costs and hopefully reduce
22 costs for the ratepayers.

23 So given that, what came about was this
24 idea of forming an aggregation of these smaller

1 generators and then that aggregation of smaller
 2 generators would then be treated for the purposes
 3 of regulatory compliance and GIS inputs and so on
 4 as a single generation unit. In other words,
 5 lots of small generation units if formed into
 6 this aggregation would essentially become one
 7 larger generation unit, and there's all sorts of
 8 requirements for how that would be done that are
 9 identical in both Option A and Option B.

10 So given that, perhaps it would be best
 11 if I explained sort of where we are now. If no
 12 new rule were put into place, and the easiest way
 13 to visualize is look at Option B and cover your
 14 hand over the little verifier person down there.
 15 This is where we stand now. In fact, it's
 16 already in operation in Massachusetts where you
 17 have these small generation units reporting their
 18 generation to the aggregator, that is, the people
 19 who actually own the renewable energy
 20 certificates and therefore get the financial
 21 benefit of it. The aggregation owner literally
 22 inputs that reported generation into the
 23 generation information system themselves, it's
 24 done right online over a website actually, and

1 then once those REC certificates are in the GIS
 2 they can be used for compliance. And so that's
 3 why I showed the little dollar sign going back to
 4 the aggregation because I think it's important to
 5 keep in mind, again, getting back to the question
 6 what is the economic question here, the question
 7 is the aggregator ultimately gets the economic
 8 value of performing this aggregation, and
 9 therefore, the amount of generation from the
 10 aggregation.

11 So given that, we identified two ways
 12 that this could be made more robust to improve
 13 confidence in the system. Clearly, no one really
 14 felt good with having the aggregation basically
 15 sort of self report on the generation that
 16 they're going to get economic value for. The
 17 first idea that came up actually was Option A,
 18 and basically, the idea here is that instead of
 19 the generation units reporting their generation
 20 to the aggregation owner, it would go to a third
 21 party and that would be an independent third
 22 party not having any financial relationship to
 23 the aggregation, and in fact, wouldn't even be
 24 compensated by the amount of generation from the

1 aggregation so there would be no reason for the
 2 verifier to have any reason to misstate or
 3 misrepresent the generation from the different
 4 units. And then that verifier would actually do
 5 the meter readings and would enter the total
 6 output of the generation units into the GIS which
 7 would be used to create RECs and meet the RES.
 8 This was thought to be a relatively
 9 straightforward, clean way of doing this. It
 10 would have reduced administrative burden for
 11 everybody, but most importantly, perhaps it would
 12 be a very trusted way of accounting for
 13 generation for these smaller units.

14 The only issue became -- I think it's
 15 fair to say the only issue that people had in the
 16 members of the group was that the current
 17 configuration of the GIS system right now, the
 18 actual technology, the website I mentioned,
 19 doesn't allow this to happen. The only people
 20 that can enter the RECs into the GIS right now is
 21 the generation -- is the aggregation owner. So
 22 folks that were supportive of Option A said
 23 that's fine, we'll just have the GIS system
 24 change the website. It's not that big a deal,

1 and Ms. Perez can speak more about the technology
 2 change that would be required. It really would
 3 be a simple question of allowing the verifier to
 4 have access to a particular screen without access
 5 to the full account that the aggregator would
 6 have. However, there were folks in the group
 7 that felt no, we don't want to be requiring the
 8 GIS to make changes, and what they were saying is
 9 Option B down at the bottom, yes, we need to have
 10 this third party verifier, but their role is sort
 11 of an accountant, doing an audit, they would
 12 oversee the process that the aggregation puts in,
 13 list and make sure that they're entering
 14 accurately the output of the aggregation.

15 So that's sort of an overview of the
 16 two issues and I'll put in a plug for Option A.
 17 We'll be hearing from Option B. Basically, the
 18 GIS system was developed to serve the purpose of
 19 efficiently meeting these various regulations, be
 20 they renewable energy standards, be they emission
 21 standards, be they source disclosures or emission
 22 disclosures on bills and so on. And so it seems
 23 they are effectively reasonable and in fact
 24 proper for the Public Utilities Commission to say

1 to the GIS, you know, put this change in place.
 2 This is the regulation and your job is to make
 3 the change necessary to make the regulation work
 4 and the costs of that would be minimal is what I
 5 heard from -- actually from -- actually Mason who
 6 couldn't be here as we heard, but she was very
 7 familiar with the technology behind it and she
 8 concurs that the technology change is really not
 9 a big deal, it would not be costly and it's
 10 really just a question of getting training and
 11 the bureaucracy at the GIS to get the change in
 12 place. And so given that the change needed is a
 13 simple one technologically and given that having
 14 a third party verifier actually enter the
 15 generation themselves instead of having to go
 16 through a lot of hoops to oversee aggregators
 17 doing it and given the importance of developing a
 18 trusted and robust and confident market in the
 19 RECs, for all the reasons, we've been hearing
 20 about economics and so on and making sure
 21 ratepayers are getting what they pay for, we
 22 think that's where we should go is basically with
 23 Option A.

24 DR. RAAB: Before I turn it over to

1 Rhode Island is around as far as we're concerned
 2 and in a position essentially that has a meter
 3 reading group and has set clear standards, we
 4 think they should be the type of entity that
 5 should be allowed. There are clearly electric
 6 distribution companies that can step into this.
 7 We view what is being talked about here is
 8 essentially a one or two person organization.
 9 This is going to be their portion of their job.
 10 They're going to have to rely on revenues from
 11 other sources, since this idea has first come up
 12 about a year ago at the NEPOOL GIS it moved into
 13 essentially no relationship between an aggregator
 14 and verifier. The fact that no type of
 15 compensation to the verifier can be volume
 16 related to reading the meters, we believe those
 17 issues are easily passed by by simply mandating
 18 that electric distribution companies be the sole
 19 type of entity to read such meters. That's our
 20 first point.

21 Our second point goes to Option B.

22 When there was an extensive amount of discussion
 23 at the NEPOOL GIS operating rules committee with
 24 the exception of really conversion services there

1 Bill Short to talk about Option B, I want to say
 2 there was one other subissue which two of the
 3 four parties that supported Option B supported
 4 which was to also limit the verifier to be the
 5 electric distribution company so that is a
 6 subissue, it wasn't noted in the cover letter but
 7 is noted in the text, so Bill Short will speak
 8 both to Option B and then also the subissue about
 9 the verifier being limited to the distribution
 10 company.

11 MR. SHORT: Thank you, Jonathan. I'd
 12 like to with respect start actually with the last
 13 issue which is who can be the verifier. We
 14 believe that the verifier should be electric
 15 distribution companies. We have looked into this
 16 issue with respect to Massachusetts.
 17 Massachusetts Electric, an affiliate of
 18 Narragansett Electric, reads meters with respect
 19 to load response programs. They charge a \$12.50
 20 a month, \$250 for their time to read load
 21 response program meters. These meters would be
 22 very similar to what would be read here. We see
 23 no reason given the fact that we can have an
 24 organization that will be around for as long as

1 was really no support for Option A. This thing
 2 was -- this issue wasn't sent over to the meter
 3 reading working group of the New England Power
 4 Pool and as a result of that the issue was
 5 essentially tabled. This is an attempt to come
 6 back through here, come back through this
 7 proceeding, reopen this issue and essentially
 8 create what I call the equivalent of a
 9 constitutional crisis and therefore the GIS will
 10 be forced to change. There is no reason after
 11 extensive debate to change essentially from
 12 Option B to Option A. Thank you.

13 DR. RAAB: Any other stakeholders want
 14 to comment on this? Bob and then Craig.

15 MR. GRACE: I'd like to just address
 16 the first point made by Mr. Short about who would
 17 be the verifiers. The Energy Office has through
 18 its activities administering the renewable energy
 19 fund two perspectives here that conflict with
 20 that perspective of the utility being the meter
 21 reader. One is the fund has invested in or
 22 supported many of the small generators that would
 23 be qualifying under this approach and through
 24 that investment or through the fund programs

1 there is metering infrastructure associated with
2 many of these projects and will be through the
3 future. To mandate that some other entity be the
4 metering entity would effectively duplicate
5 unnecessarily the infrastructure that the fund
6 has already built and that the small generation
7 community has invested in, and that is not to the
8 ratepayers' benefit to duplicate metering and
9 data collection functions.

10 The second point is the fund through
11 its activities is aware of several businesses
12 that have been formed and that can very
13 efficiently collect data from small generation
14 sources of this type, far more data than is
15 needed for this particular purpose, but it is
16 used to support additional purposes of program
17 support and reporting and that these businesses
18 can be very efficient and cost effective in doing
19 so. So to mandate that the utilities step into
20 that role effectively stifles the growth of these
21 businesses which seem to be able to provide
22 competitive service at a better price.

23 DR. RAAB: Craig?

24 MR. C. EATON: Yes, just quickly. FPL

1 it is, it's a matter of tweaking the log-in
2 process. The verifier would go there and she or
3 he would go in and change the one module that has
4 to do with entering the generation data and it
5 would have a consistent reporting procedure all
6 across the board and would add integrity to the
7 entire process.

8 MR. NAULT: Your comment regarding the
9 cost of Narragansett being the verifier, why is
10 it your position that it would be more expensive
11 to have Narragansett do the function?

12 MS. PEREZ: Well, these -- I would
13 assume that a lot of these behind the meters are
14 not close to the grid so that would mean they
15 would have to go out there and see these meters
16 and there's no reason why Narragansett should
17 have to do this. If there's companies that
18 already exist, I believe -- where is this company
19 located?

20 MR. STEPHENS: In Massachusetts.

21 MS. PEREZ: In Massachusetts there's
22 companies that already have the capabilities of
23 doing this and the process is already
24 implemented.

1 Energy wants to support what Mr. Short said
2 quickly on the verifier. We feel the same.
3 Narragansett Electric, this is what they do, this
4 is what they know and they certainly can be
5 trusted. On Option A, Option B, Option -- you
6 see with Option A you're going to have to be
7 encouraged, you, the Commission, to pursue
8 changes at NEPOOL, and quite frankly, we think
9 you have enough to do to try to get into that
10 ball game so we also support Option B.

11 DR. RAAB: Any other stakeholders?
12 Yes, Nubia?

13 MS. PEREZ: Very quickly in terms of
14 having Narragansett be the verifier, Narragansett
15 doesn't really, I don't think, want to do this.
16 It doesn't -- it shouldn't be compelled and it
17 shouldn't be forced. What this is is, as Mr.
18 Grace said, it's a barrier to the free market.
19 There's no reason why the aggregators wouldn't
20 choose who their verifier should be. Quite
21 frankly, it would be expensive and this cost
22 would go to the ratepayers themselves.

23 In terms of Option A and Option B, the
24 change, it really isn't that big of a deal. What

1 MR. GRACE: If I could reiterate
2 another aspect here, as I mentioned, the fund has
3 already invested in data collection
4 communications equipment for a number of these
5 installations, so the data is already being
6 metered, already being communicated to a
7 centralized collection point. To inject an
8 additional verifier, you need to put an
9 additional meter in there and send a meter reader
10 out. So it's basically duplicating costs, so
11 that's the other reason that the cost may be
12 higher.

13 COMMISSIONER HOLBROOK: What kind of
14 activity is involved here? How many meters would
15 be subject to being read and with what frequency?

16 MR. STEPHENS: Right now if this were
17 to be put in place tomorrow, it would be on the
18 order of frankly 50 meters, something like that
19 that I'm aware of. Obviously, the hope is that
20 it's going to grow quickly from there. So I
21 wouldn't look to today's numbers to be an
22 indication of where we want to be. I would --
23 getting back to the question of, you know, what
24 the expense -- why would it be more expensive to

1 have National Grid do the meter reading, the
 2 reason is -- well, put it this way. If National
 3 Grid could do it less expensively, then maybe we
 4 should look back at the T&D costs they're
 5 charging us, because if you look at the customer
 6 charges that presumably cover things like meter
 7 reading, they're substantially higher than what
 8 these new technologies have been able to do.
 9 These new companies, you know, quickly adopt new
 10 technologies a little more nimbly than a large
 11 distribution company understandably and just have
 12 the technology and ability to read meters very
 13 efficiently, and in fact, they do it -- your
 14 other question about how frequently, I think to
 15 meet the GIS rules it would only have to be done
 16 quarterly not monthly. But these new
 17 technologies are so efficient that they get
 18 instantaneous data.

19 Just as a matter of note, this is
 20 basically what we're describing with this
 21 independent verifier actually reading the meters
 22 is what Connecticut already adopted, as I
 23 understand it, VAEIS, as the company that was
 24 mentioned earlier has been approved as one of

1 these third party meter readers by the
 2 Connecticut PUC, and so I think this is really
 3 clearly a way to go in terms of allowing the
 4 marketplace to identify the most cost effective
 5 solution to this problem.

6 DR. RAAB: Tom Robinson from National
 7 Grid.

8 MR. ROBINSON: Yes. I just wanted to
 9 say that we aren't opposed to reading meters. We
 10 do that for a living. The customer charge that
 11 Erich mentioned has nothing to do with our costs.
 12 We have to do a separate cost study. I think the
 13 big impediment to this process has been that
 14 NEPOOL rule. Today people are self certifying
 15 and that the Energy Office is supporting meter
 16 reading and data collection and so forth so the
 17 process is working today. I think that's
 18 incorporated in the proposed rule. It's whether
 19 we have to change the, or whether we wish or have
 20 the ability to change the NEPOOL rule to have
 21 some data entry system that goes straight from
 22 Narragansett or from the Energy Office to the GIS
 23 system. That is the issue here. Reading meters
 24 is a relatively small component of that problem

1 and I think it can be addressed in any number of
 2 ways. We're neither opposed to reading meters
 3 nor do we require that we read all the meters. I
 4 think it's a secondary problem associated with
 5 this issue.

6 DR. RAAB: Nubia?

7 MS. PEREZ: If I could just add one
 8 more issue in terms of Option A. What this would
 9 allow is the generation data to be entered before
 10 the certificates are created, therefore, there
 11 wouldn't be a true up process that would be
 12 necessary at the end of the trading period.

13 DR. RAAB: Any other questions on this
 14 dispute?

15 MR. FRIAS: On the Option A, Mr.
 16 Stephens, I've been hearing more and more that
 17 this is going to require NEPOOL changes. Is that
 18 your position? Do you agree with that assess?

19 MR. STEPHENS: Yes, but simple
 20 technology changes. I don't think it would
 21 require any, you know, change in policy. It
 22 wouldn't require any change even to the database
 23 itself. It's really just frankly a question of a
 24 little web mastering to allow this change to go

1 into place, and as I understand it, the GIS was
 2 meant to serve the rule makers of the various
 3 states, so I think it's quite proper and
 4 appropriate permission to ask this simple change
 5 to be made.

6 MR. FRIAS: If we were -- if the
 7 Commission were to approve Option A and NEPOOL
 8 tells us to go scram, what are we going to do?

9 MR. STEPHENS: Option B.

10 MR. FRIAS: Basically what you're
 11 saying is adopt Option A, go ask NEPOOL, we have
 12 a couple issues we're going to ask them to please
 13 change and if they didn't, then we'll fall back
 14 to Option B is your position right now.

15 DR. RAAB: I think that's the position
 16 of that whole group and that's what is stated in
 17 the whole document.

18 MS. PEREZ: Also keep in mind that it
 19 wouldn't be implemented until 2007 so it would be
 20 a while.

21 MR. GRACE: If I could just comment on
 22 the process for changing the GIS rules at NEPOOL.
 23 I represented another client on the GIS working
 24 group and have been involved in a number of other

1 rule changes since the original adoption of the
2 GIS rules. The GIS rules were envisioned to be
3 something that would be a living document and
4 that would be changing regularly in response to
5 changes in market conditions as well as changes
6 in state policy and statute. The GIS has a
7 contract with its vendor and as a matter of its
8 own process envisioned this and every six months
9 has established a process for considering and
10 incorporating changes of this nature as a matter
11 of its ongoing business, so it's not a stretch at
12 all to propose this, have it be considered within
13 the due course of operating the GIS and have it
14 either adopted or not. It's rather
15 straightforward.

16 MR. FRIAS: Just a question to
17 Narragansett Electric about "the costs of
18 checking out 50 meters". Does Narragansett
19 Electric check those meters at all right now,
20 those types of meters, that type situation?

21 MR. ROBINSON: I don't believe we do.
22 There may be some circumstances under the
23 standard generation rate where we meter outside
24 generation, but I'd have to go back and check to

1 demonstration of compliance in general was
2 adopted from the Massachusetts rule; the process
3 is nearly identical. There was no need to create
4 a new process. The process working in
5 Massachusetts is working well and effectively and
6 really encompasses just about every circumstance
7 envisioned in the statute here, so much of the
8 language here is as it is because we started with
9 the Massachusetts language.

10 The specific questions that were raised
11 on Section 7.3, and please explain how this
12 section would work moving through each sentence,
13 this is the section that applies to how
14 alternative compliance payments would be
15 addressed in the process of demonstrating
16 compliance. Basically, what an obligated entity
17 would do at the end of -- at the end of a year if
18 that entity's load was 1,000 megawatt hours in
19 that year and that RPS in that year was three
20 percent, it would need to demonstrate 30
21 certificates. If it had 27 certificates, and
22 therefore was -- were three certificates short,
23 it would need to make a payment of the
24 alternative compliance payment to the Economic

1 see. But outside meter readings we meter and
2 don't. I'm not familiar with the program that
3 Mr. Short mentioned or the charges. We can do
4 that, provide it as a record request.

5 MR. FRIAS: Actually, it's not
6 necessary to be a record request at this point.
7 How often would this -- this may be a question of
8 Mr. Short or somebody in the group. How often
9 would Narragansett Electric be required to go
10 check the meters? How often? A month?

11 MR. SHORT: The load response program,
12 which is what the tariff would be modeled on, is
13 essentially telemetered, so it's read effectively
14 instantaneously.

15 MR. FRIAS: Okay.

16 DR. RAAB: Moving on to section 7 which
17 is demonstration of compliance, there were no
18 disagreements, lingering disagreements in this
19 section but some questions have been raised that
20 wanted explanations and some of the language
21 which may not have complete sentences, so Bob
22 Grace was going to step through a couple of the
23 questions that have been raised and clarify that.

24 MR. GRACE: This whole section,

1 Development Corporation's renewable energy
2 development fund of three times the alternative
3 compliance payment. This envisions that after
4 making such a payment that obligated entity would
5 have a receipt documenting that and as a matter
6 of demonstrating compliance that party could show
7 if it needed 30 certificates, it had 27 GIS
8 certificates documented by NEPOOL GIS
9 documentation and that the residual, the three
10 megawatt hours they documented that they had paid
11 their alternative compliance payment.

12 The tail portion of this section that
13 describes where an obligated entity enters into a
14 prospective agreement with the Rhode Island
15 Economic Development Corporation to accept
16 alternative compliance payments pursuant to the
17 statute, Section 39-26-7(b), et cetera, that is
18 referring to a mechanism that was included in the
19 statute that allowed for obligated entities to
20 enter into longer term prospective contracts with
21 the EDC to pay alternative compliance payments
22 ahead of time. So that would be a little
23 different mechanism whereby an obligated entity
24 might almost seek to subcontract its compliance

1 to the Economic Development Corporation, and in
2 exchange for that when -- if the Economic
3 Development Corporation did turn around and
4 procure certificates, those certificates would
5 effectively be assigned back to the obligated
6 entity to make the books balance. I'd ask Mr.
7 Duffy or Mr. Dzykewicz whether I mischaracterized
8 anything as they understand it.

9 MR. DUFFY: I think that's accurate.

10 MR. DZYKEWICZ: I think that's
11 accurate.

12 MR. GRACE: The next question that was
13 posed was Section 7.4, Subparagraph Roman numeral
14 iii. The first part is not a sentence. It looks
15 like the word allow was omitted from the
16 beginning of the sentence, so it would read,
17 "Allow renewable energy generated during Calendar
18 Year 2006," et cetera.

19 The next question that was posed,
20 Section 7.9, Roman numeral ii, was how would this
21 calculation work. This dictates that the
22 quantity of credits specified in megawatt hours
23 that can be applied to the obligations of an
24 obligated entity would be determined by

1 regulations governing treatment of confidential
2 information, an obligated entity at that time may
3 seek to protect information under those rules and
4 the Commission would have to respond to that and
5 decide whether it was something -- so I think
6 this would be ad hoc. If requested, you'd have
7 to make a ruling on whether that information
8 would be treated confidentially.

9 MR. HARTLEY: And if I may add, when
10 this was being discussed and I was representing
11 the Commission's point of view, I stated that
12 this was a well established way of operating for
13 the Commission. If someone requested something
14 be kept confidential, the Commission knows just
15 what to do and just how to go about it. Nothing
16 fancy there.

17 THE CHAIRMAN: Well said.

18 MR. GRACE: I believe those were all
19 the questions posed ahead of time. If there are
20 any further questions that I can answer as
21 primary author of this section, I'd be happy to.

22 DR. RAAB: Otherwise, we can move to
23 the fun and games in Section 8.

24 THE CHAIRMAN: At this point take -- as

1 calculating the ratio of the total payment to the
2 Economic Development Corporation's renewable
3 energy development fund divided by the payment
4 rate. Basically, this is to return to my earlier
5 example. If the alternative compliance payment
6 in a given year was \$50 per megawatt hour and the
7 obligated entity was three megawatt hours short,
8 by making a payment of \$150 to the renewable
9 energy development fund, it would fulfill its
10 obligations, so dividing the 150 by the 50 equals
11 three megawatt hours. That's the calculation
12 envisioned here.

13 The last question that had been raised
14 in Section 7.10, Subparagraph 2, what is
15 confidential. The sentence that this is
16 referring to, the Commission shall keep product
17 information confidential to the extent permitted
18 by law, I guess I have to leave this to obligated
19 entities perhaps to argue what they may consider
20 confidential. My understanding is that obligated
21 entities may consider the volumes of sales under
22 given products to be commercially sensitive
23 information and I would envision at the time of
24 filing that pursuant to existing law and

1 a matter of fact, take lunch now. That's an even
2 better idea. Take an hour break.

3 (LUNCHEON RECESS)

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1 AFTERNOON SESSION

2 AUGUST 31, 2005

3 1:15 P.M.

4 THE CHAIRMAN: Back on the record
5 please. Where were we?

6 DR. RAAB: We're going to go to Section
7 8 now which is on contract standards and
8 procurement plans, and I just wanted to I guess
9 say some opening comments here and then turn it
10 over to the stakeholders to describe a little bit
11 about what the disagreement is, but I think the
12 primary point that I want to make is that the
13 group is pretty much wholly in agreement as to
14 what's in Section 8 right now as a process to
15 move forward. The disagreement comes on how some
16 of the information that comes through the process
17 is handled, specifically whether the electric
18 distribution companies should be looking at
19 long-term contracting for one issue, and another
20 issue, which is a dissent from TEC-RI and Silent
21 Sherpa ECPS, is that what's here in Section 8
22 should also be applied to the renewable energy
23 development fund administered by the EDC.

24 So those are the two issues. Again,

1 them, you know, will be based on market dynamics
2 and whatnot. That would be beneficial to me.
3 I'd like to have it in the record and just
4 pretend that you're meeting an old friend down
5 the street and you're saying, "This is what I've
6 been doing for the last two months," okay, and
7 try to let that person, me and others, understand
8 from the horse's mouth conceptually an overview
9 of the program.

10 DR. RAAB: Of the program meaning how
11 the regulations or how the market would work
12 essentially?

13 COMMISSIONER HOLBROOK: Yes.

14 DR. RAAB: I guess I would say as the
15 mediator this is probably not the best horse to
16 hear it from. I'm obviously dealing with the
17 details of getting everybody to agree. In terms
18 of talking about maybe how the market's going to
19 work, I would probably ask one or two of the
20 stakeholders to do that if you don't mind.

21 COMMISSIONER HOLBROOK: That's fine.

22 DR. RAAB: I think you'd get a better
23 answer and I think I would let Bob, maybe, if you
24 don't mind taking a first shot at it, and maybe a

1 the disagreement is less on what's in here as to
2 a couple of issues that are important issues, but
3 are around the edges of what's here. So I'm
4 going to -- what I'm going to do is have National
5 Grid just work through -- walk through how the
6 contracting and procurement process would work,
7 and then we'll let some of the dissenting parties
8 talk about the issues that I just mentioned.

9 COMMISSIONER HOLBROOK: Dr. Raab,
10 before you do that, and you may be proposing to
11 go into what my question will be, but I see three
12 parts to what we're talking about this morning.
13 One is the problem which is to get more renewable
14 sources of energy into the system by the year
15 2020, the second piece would be the concept of
16 the solution, which is the program, which is
17 market driven, and then thirdly is what we're
18 discussing this morning which is the rules to the
19 concept of the solution. Okay?

20 So I wonder if I could ask you before
21 we go into Section 8 to take five, six, ten
22 minutes, whatever, and just give an overview of
23 the program, okay? How it will work, how these
24 certificates will be issued, what the value of

1 few others. Bob has done a lot of work in other
2 states and a lot of work, so if you don't mind,
3 Bob.

4 MR. GRACE: Did it again. I guess just
5 to start from obviously we have the purpose of
6 RPS is to meet certain objectives and in this
7 case the objectives are delineated in the
8 statute, but the bottom line is to increase the
9 proportion of renewables contributing to supply
10 by setting a target and then letting the market
11 work efficiently to find a least cost way of
12 doing so. So by setting targets that increase
13 over time and apply them the obligated entities,
14 there is defined demand or renewable certificates
15 over time.

16 With that demand obligated entities
17 have to either shop or pay the alternative
18 compliance payment which serves a couple of
19 different purposes. It serves to be in effect a
20 penalty for not complying, but really, there's no
21 penalty nature to it if you do pay it, but it
22 also serves as a price cap, so that if the
23 dynamics of supply and demand were such that the
24 cost of buying certificates was more than that,

1 you can simply pay the alternative compliance
 2 payment and cap the cost to consumers of
 3 compliance. So within that context with
 4 obligated entities having the incentive to shop
 5 and comply that at the same time creates the
 6 incentive for investments in new renewable that's
 7 meant to be made by investment in generation and
 8 ultimately, like any other market, the price at
 9 any time, the short-term market price of an
 10 eligible generation power certificate is going to
 11 fluctuate with supply and demand.

12 In Massachusetts we've seen this play
 13 out where the rules were put in place with very
 14 little lead time before the standard was actually
 15 in effect, and therefore, the market's been
 16 playing catch-up. Demand has been ahead of
 17 supply and you've seen the initial prices be
 18 high, and as a result of that you're seeing quite
 19 a bit of development in the region and more and
 20 more renewable projects are coming on-line and
 21 forward prices are starting to drop accordingly.

22 That really foreshadows the nature of
 23 how the market will work because renewable
 24 generation is -- tends to be very capital

1 intensive. The general way that renewables have
 2 been built in this country has been when there's
 3 been a long-term contract with a creditworthy
 4 buyer that justified the investment of capital in
 5 that project, and therefore, has allowed that
 6 capital to be amortized over time, allowed debt
 7 financing that was paid out over time much like a
 8 mortgage and thereby makes the per kilowatt hour
 9 cost of renewables reasonable or brings it into
 10 the range of other alternatives.

11 In this environment, in a competitive
 12 environment, the mechanism is that the buyers
 13 aren't the same buyers that you may have in other
 14 parts of the country that have not gone through
 15 utility restructuring, you don't have actual
 16 fully integrated utilities with a stable load
 17 that are the only market you have, you know,
 18 anything ranging from competitive suppliers,
 19 non-regulated power producers come into the
 20 market, you have providers of last resort,
 21 standard offer, and load shifting over time, so
 22 you have a more complex environment in which to
 23 get projects financed and which to find long-term
 24 contracts to do so. At least for the time being

1 there's almost no experience in this country with
 2 projects being built without long-term contracts
 3 or substantial subsidy coming from other places.

4 So that's a little bit of the backdrop
 5 to the conversation we've been having about
 6 long-term contracting and some of the reasons why
 7 the statute had some language pertaining to
 8 procurement plans and long-term contracting.

9 Foreshadowing that would be an issue
 10 here how obligated entities will go about
 11 procuring and how projects will get financed with
 12 something worthy of the Commission's attention.
 13 Generally speaking, the cost of renewable energy
 14 certificates if there are long-term contracts
 15 will move in accordance with a couple of
 16 different drivers. Obviously, there's supply and
 17 demand much like the energy markets and capacity
 18 markets at NEPOOL. They'll tend to clear based
 19 on what the marginal resource is or the next
 20 resource in. So if the last resource available
 21 happens to be very expensive, then the prices may
 22 rise. Rising prices create incentives for new
 23 entry to come in that can do it for a lower cost.

24 The other dynamic here, since the whole

1 idea behind an RPS is to assure a premium, if
 2 necessary, above the revenues that a generator
 3 would get through the conventional electricity
 4 markets, the energy and capacity markets which
 5 they, of course, participate in and get energy
 6 from. The renewable energy certificate
 7 effectively represents a premium or additional
 8 revenue stream. If electric prices go up, as
 9 they have been, presumably, all else being equal,
 10 the renewable energy certificate prices needed to
 11 attract investment would come down and vice
 12 versa.

13 So under this market structure there's
 14 something of a hedge built in for customers. If
 15 electricity prices rise, presumably the cost of
 16 compliance is going to drop in proportion.

17 COMMISSIONER HOLBROOK: Why is that?

18 MR. GRACE: Let's take an example, a
 19 new renewable generator, if they're able to get a
 20 long-term contract and they effectively needed,
 21 let's say, \$0.08 a kilowatt hour in revenues from
 22 all the different sources, energy, capacity and
 23 renewable energy certificates, over the course of
 24 10 or 15 years in order -- they have this

1 guaranteed revenue, they'd be able to attract
 2 investment to the plant. Now, if will you, the
 3 electricity markets if they could get a higher
 4 proportion of that, let's say, recently we were
 5 seeing electric prices that are getting in the
 6 range \$.06, \$.07, even higher on a short-term
 7 basis recently, that would decrease the amount
 8 out of what they need that they'd have to find in
 9 renewable energy credit prices, so if there is a
 10 competitive market and you've got generators
 11 competing against each other for that premium,
 12 and that's what a renewable portfolio standard
 13 does, it's going to -- the obligated entity is
 14 going to buy it from wherever it's cheapest, so
 15 given that competitive pressure, the competitive
 16 pressure is going to keep the -- that clearing
 17 price on all in basis, that \$.08 will be driven
 18 from the competitive pressure and the energy
 19 market would provide a larger proportion of it in
 20 the event that energy prices are increasing, and
 21 therefore, you would expect a lower price on
 22 renewable energy credits.

23 COMMISSIONER HOLBROOK: What are the
 24 dynamics of the pricing, the clearing of the

1 they're going to tend to increase to the cost of
 2 entry or higher. So you'll have almost a buyer's
 3 market where short-term prices will either be
 4 high or low and because that creates an unstable
 5 environment for -- an unstable and risky
 6 environment for both buyers and sellers, there'll
 7 be incentives for both parties to enter into a
 8 contract of some duration to mitigate that risk
 9 and create something of a longer term forward
 10 price that represents the cost of renewables.
 11 The presence of banking will change that a little
 12 bit. If prices are expected to crash or there's
 13 ample supply, obligated entities can buy more
 14 when the prices are low and save them for later
 15 and that will tend to keep the prices from going
 16 to zero, and of course, you have the alternative
 17 compliance payments to constrain the prices on
 18 the high side. So I expect over time you'll see
 19 spot prices that will fluctuate between something
 20 above zero, given the incentive to -- for
 21 obligated entities to shop when prices are low
 22 and when the expectation is that the market may
 23 be short, those short-term prices will tend
 24 towards the alternative compliance mechanism, but

1 value of the certificates? How does that work?
 2 How does that mechanism work?

3 MR. GRACE: The market energy
 4 certificates is effectively an annual market.
 5 The certificates are created quarterly at the
 6 NEPOOL GIS but the obligation is annual, and
 7 within a given year an obligated entity would
 8 have the entire year or each of four quarters in
 9 which to shop for its renewable energy
 10 certificates, so basically the market is annual.
 11 If there's demand and supply in a certain year,
 12 if there are sufficient certificates available,
 13 the market would clear at the marginal cost.

14 Now, you really have much like capacity
 15 energy in the other markets that we're
 16 experiencing, electricity you'll have short-term
 17 and long-term transactions going on. The
 18 presence of banking will change. What I'm about
 19 to describe a little bit -- let me come back to
 20 how that would affect it. In the absence of
 21 banking you'd have a market that looked a lot
 22 like the capacity market at NEPOOL in that you
 23 have an excess market, prices are going to tend
 24 to crash toward zero. If you have a shortage,

1 because those are somewhat unstable prices,
 2 you'll definitely have obligated entities that
 3 will be operating on a longer term basis. You'll
 4 see forward prices that will tend to be more
 5 along the lines of what things cost, and you're
 6 seeing that today. There are forward markets
 7 developing for Massachusetts and Connecticut
 8 certificates and there are prices that are more
 9 representative of the fundamentals of the market
 10 where supply and demand cross and what it
 11 actually costs for renewable.

12 COMMISSIONER HOLBROOK: Who will the
 13 participants in the market be?

14 MR. GRACE: Generally speaking, you
 15 will have three classes of market participants.
 16 You'll have generators who are creating the
 17 certificates, you'll have the load serving
 18 entities or the obligated entities who have the
 19 obligation and then you'll have parties that are
 20 -- they may have trader accounts, but ultimately,
 21 you'll have parties that are taking middleman
 22 positions.

23 COMMISSIONER HOLBROOK: Will
 24 speculators come into the market?

1 MR. GRACE: These middlemen will
2 include speculators. They may be in the
3 wholesale market taking the position one way or
4 the other or seeing opportunities for their
5 business interests to be met.

6 COMMISSIONER HOLBROOK: I'm hardly an
7 expert on how the markets work, the financial
8 futures markets work and whatnot with respect to
9 natural gas, but I've read and I've heard that
10 maybe a third of the players in the futures
11 market that has an effect on prices that gas
12 companies pay and utilities pay for natural gas
13 make up the market, a third of the players are
14 speculators with no intention of taking delivery
15 and whatnot, it's a gamble, okay, that their
16 investment will appreciate in value. Should the
17 Commission have any concern with respect to an
18 undue presence of speculators coming into the
19 market which really means that at the end of the
20 day ratepayers are going to have to pick up the
21 game, the roll of the dice that speculators are
22 causing in that market or am I way off base on
23 that?

24 MR. GRACE: I think actually the

1 they've made in -- to switch into more efficient
2 fuels, more renewable fuels, I don't think
3 anybody would have a problem with that, but to
4 the extent that prices became inflated to reward
5 speculators in the market, I understand that's
6 the market dynamic, but it's a premium involved
7 in the equation and if it becomes a large amount
8 of money, then it's above and beyond the brick
9 and mortar of the physical cost of the conversion
10 to renewable fuels and I'm just curious about the
11 impact of that, the magnitude, the scope of it,
12 okay, because I suspect if you look at, and I
13 heard on the radio at lunchtime that oil went to
14 over \$72 a barrel and I don't think they're
15 paying \$72 a barrel at the wellhead, so
16 speculators are driving the market. It's the
17 boondoggle, it's, you know, the Oklahoma land
18 rush and it's taking an awful lot of money to be
19 put into the market, some people make money, some
20 people just bleed because of it, and this is one
21 of the concerns I have about the program. I just
22 want to understand it. Okay? So that five years
23 from now, three years from now people are not
24 surprised when the cost of the program is

1 presence of speculators, economic theory and I
2 think the way other markets work would suggest
3 that it's a reason for confidence because those
4 speculators coming in and taking a position tend
5 to bring the market toward some type of
6 equilibrium and speculators ultimately need to
7 live off their risk as well. Very few parties
8 take purely speculative risks, and so most of
9 those speculators will look to come in and maybe
10 take a position where they can make some money,
11 but they're going to want to live off that
12 position and match a service with a sale and
13 those activities tend to actually drive the
14 incentive market prices and visible market
15 prices. So I think we could have some confidence
16 that that activity actually rationalizes the
17 market and tends to bring market prices towards
18 what it would cost to build new generation. If
19 those prices differed from what it cost to make
20 generation, then somebody out there would be
21 either making or losing a lot of money.

22 COMMISSIONER HOLBROOK: To the extent
23 the certificates are valued at a price that would
24 reimburse the generators for the investment that

1 identified and creeps into the rates and they
2 begin to realize that X percentage of it, an
3 inordinate percentage of it, okay, is just, you
4 know, an amount of money to feed the system which
5 is capped and risk taking and reward.

6 MR. GRACE: Those are all valid
7 concerns and I think the way renewable portfolio
8 standards have been developed really takes into
9 account a lot of those concerns. The Rhode
10 Island RES has had the benefit of being able to
11 come after a number of other renewable portfolio
12 standards and identify best practices and really
13 avoid some of the concerns that have been raised
14 or learn how to do it right from the experiences
15 of others.

16 Part of that is there are several
17 safety valves that are built into the statute.
18 One is the ability to bank, so that serves
19 entities that are concerned about the possibility
20 of future high prices can effectively insulate
21 themselves against this by buying some excess and
22 carry that forward conceptually as some insurance
23 against high prices. In fact, I commend National
24 Grid in its proposed procurement plan here that

1 they would be looking to get prices early and
 2 consider early compliance to do just that.
 3 The second is the alternative
 4 compliance payment which has been set to be
 5 roughly twice what people expect the cost of
 6 entry to be, so that really serves two purposes.
 7 It allows the market to set price signals so if
 8 the prices rise, that signals that there's a need
 9 and will draw people into investing and creating
 10 more renewables with the confidence that it costs
 11 less than that to build more renewables;
 12 generally renewable plants are smaller and more
 13 modular and can come on-line more quickly than
 14 conventional power plants and as well when you
 15 have the ability to have co-filings of biomass
 16 and fossil fuel plants or the ability to expand
 17 the output of despicable biomass plants, there's
 18 some short-term ability to increase supply
 19 quickly in response to that demand signal.
 20 So there is the ability for the market
 21 to respond fairly quickly to those price signals
 22 and have prices come back down as additional
 23 supply is brought on, but in the event that the
 24 market diverges, that supply can't keep up with

1 demand, which obviously is a very important
 2 concern for ratepayers, the third safety valve
 3 comes into play and that's the ability for the
 4 Commission at a couple specific points in time to
 5 step back, take a look at how supply and demand
 6 have been developing and the degree to which
 7 there's additional development in the pipeline,
 8 to respond to that and I assume if the Commission
 9 saw supply and demand diverge from that, it would
 10 take its opportunity to slow down the rate of
 11 increase and let supply catch up. So the
 12 combination of those mechanisms were rather
 13 explicitly designed to address the concern that
 14 you raised.
 15 As well we have the ability for
 16 generation outside of New England to come in by
 17 various import transactions which are not easy;
 18 they come at a cost. A generator outside of New
 19 England would have to transmit its energy into
 20 New England real time and that is not an easy or
 21 cost-free process, but it does allow that more
 22 resource rich areas can also provide resources as
 23 something of a safety valve and once we have more
 24 and more projects being developed in the region,

1 as most of the states now in the Northeast have
 2 renewable portfolio standards, you'll see more
 3 and more of an ability to react quickly to price
 4 signals.
 5 Just as an example, right now there's a
 6 100 megawatt wind plant being built in Upstate
 7 New York in response to New York's portfolio
 8 standards. That project is permanent for
 9 something like three or 350 megawatts and could
 10 very easily add a turbines and something like
 11 that can be done in a couple of months in
 12 response to demand and that capability and the
 13 infrastructure should hopefully find the ability
 14 to keep prices from being sustained at an
 15 unreasonably high level.
 16 COMMISSIONER HOLBROOK: So the cycle I
 17 guess is that the more the system shifts to
 18 equipment that will use renewable energy sources,
 19 the lower the value of the certificates would be?
 20 MR. GRACE: Yes.
 21 COMMISSIONER HOLBROOK: So the market
 22 is constantly looking for balance.
 23 MR. GRACE: The market is constantly
 24 looking for balance in supply and demand. It

1 shouldn't function dramatically different from
 2 this, and as an analyst of these markets I've
 3 been involved in probably as many attempts to
 4 forecast supply and demand and price as anybody.
 5 I hear from people in the market many concerns
 6 about high prices and low prices. There's a lot
 7 of development activity out there and a lot of
 8 generators are concerned that prices are going to
 9 crash as customers are concerned that prices are
 10 going to increase, so you know, it's rather
 11 non-scientific sampling admittedly, but I think
 12 there's at least a reason to believe that this
 13 may end up not being particularly costly for
 14 Rhode Island customers as our worst fears may be.
 15 COMMISSIONER HOLBROOK: Just one final
 16 comment. I would understand that this program,
 17 the nature of this program that's on the table
 18 right now is proven. I mean, it's been utilized
 19 in the past, it has a track record and it does
 20 work.
 21 MR. GRACE: Yes. There's quite -- the
 22 track record isn't very long. It's really
 23 renewable portfolio standards and mandates like
 24 it really came along with the advent of

1 restructuring as a way of replacing some of the
2 public benefit programs that had been in place
3 previously. But we now have the experience in
4 quite a number of states ranging from Texas which
5 has been extremely successful and a number of
6 other states, Wisconsin, New Jersey to name a few
7 that have been so successful that they are going
8 to increase their targets because they set them
9 ahead of time and they said let's do more.

10 The rules here for the most part take
11 advantage of the best of the design features of
12 programs elsewhere so I have a lot of confidence
13 that this is a reasonable set of tools to achieve
14 the objectives and keep things from derailing in
15 a way that ultimately you folks up there on the
16 podium are going to have to defend it.

17 COMMISSIONER HOLBROOK: Okay. Thanks.

18 DR. RAAB: I'll turn it over to you
19 guys in one second. So we wanted to talk about
20 Section 8 following Bob's excellent broader
21 background in which the stakeholders I think
22 developed a fairly unique process to try and
23 identify both sellers of renewable energy credits
24 over a longer time period as well as buyers and

1 market.

2 There's another just follow-on to a
3 comment from Bob, the way I look at this is
4 there's two scenarios associated with the
5 renewable certificates. One is that the program
6 totally fails. If the program totally fails,
7 that's why we built in the alternative compliance
8 payment. We have a legally mandated obligation
9 to buy and if there's nothing to buy, the price
10 would theoretically go to infinity unless we had
11 a cap on it. So the cap is the alternative
12 compliance payment. It was negotiated as part of
13 a very similar one which was negotiated in
14 Massachusetts as part of expanding their program
15 to include distribution companies who just
16 weren't willing to sign up to an unlimited
17 checkbook on that.

18 So we know what that scenario is and
19 the question came up this morning well, what
20 happens to the direct costs if nobody comes to
21 the party and we just keep paying Andy and the
22 Economic Development Commission, the alternative
23 compliance payment throughout the remainder of
24 the period. It's about \$100 million of direct

1 then we'll talk about where the difference of
2 opinion is which really goes to the role of the
3 electric company in terms of signing long-term
4 contracts. I'm going to turn it over to John and
5 Tom to just run through how Section 8 would work
6 in terms of contracting and procurement and then
7 we'll open it up to where the disagreements were.

8 MR. ROBINSON: I was just going to make
9 a few more comments on the market dynamics I
10 think from the perspective of a buyer, and before
11 I turn it over to John to tell you how we've
12 tried to deal with those in the contracts and the
13 rules and the regulations, but there are a couple
14 of differences between the REC market and the
15 regular market.

16 First, we have a legal obligation to
17 buy certainly while we're serving the load, so
18 one of our concerns has been to match our
19 obligation to buy the REC certificates with the
20 load obligations that we have, and I think
21 actually the parties have come to a very creative
22 solution to that to allow our obligations to fall
23 off as our purchase obligations fall off to be
24 picked up by other load serving entities in the

1 costs, not including energy savings per year as
2 we move out into time and the percentages get
3 higher.

4 COMMISSIONER HOLBROOK: If I could stop
5 you there for just a second, if that is the
6 scenario and that does happen where the market
7 doesn't provide you with the renewable source and
8 you have to pay this premium into the fund, then
9 what happens to that money and how does it solve
10 the problem?

11 MR. ROBINSON: Well, Andy gets it, so
12 he's a major now developer of these projects. He
13 goes off and executes the contract, uses the fund
14 much like the NTC in Massachusetts is trying to
15 do now, uses the fund to help develop projects
16 and then releases the RECs from those projects
17 back into the market which hopefully is a loop
18 that flows back that provides adequate supply
19 that reduces the overall payment below the
20 alternative compliance payment. So we've thought
21 through some of that and that's -- I guess that's
22 a failure scenario.

23 The direct success scenario case one,
24 and as Bob indicated, the short run marginal cost

1 of generating a REC at the same time you're
 2 generating a kilowatt hour from a renewable, many
 3 renewable projects is very close to zero, so the
 4 market could theoretically crash to a very low
 5 point when there is an excess of supply of
 6 renewable energy above the legally mandated
 7 purchase, and quite frankly, the load serving
 8 entities have to comply with the law. We've
 9 created a green up program that gives suppliers
 10 an incentive to green up their product and do
 11 better than comply with the law, help to market
 12 that, but there's not -- and so some of the
 13 demand from that may well help to keep the price
 14 up when the cost falls down, but it's almost like
 15 two pegs on the speedometer, it's either way up
 16 to the alternative compliance payment or
 17 potentially very close to zero, and of course,
 18 that's a big concern for the suppliers as well.
 19 But it's a big concern for us when we look out
 20 into the future and we don't really have the
 21 ongoing operating market today. We're basically
 22 up very close in New England, we're short of the
 23 legally mandated supplies from Massachusetts and
 24 Connecticut. When Rhode Island adds onto that

1 we're not quite sure.
 2 The DOER in Massachusetts has done an
 3 analysis that many of the people around this
 4 table disagree with, but nevertheless, they're
 5 the agency who is responsible for administering
 6 the program there. They expect that supply will
 7 exceed the legally mandated purchases in New
 8 England, including Connecticut, Rhode Island and
 9 Massachusetts in 2008 and thereafter. So it's
 10 all a matter of where you think the cross-over
 11 point is going to be, but the issue with
 12 long-term contracts before we have the market
 13 really operating is we don't have any basis
 14 really to forecast where that is going to be
 15 except it might be very low or it might be \$0.05
 16 a kilowatt hour. If we strike a balance at \$0.03
 17 a kilowatt hour, say, we'll look good for a
 18 couple of years maybe, but if the supply turns,
 19 then our contract payment is going to be much
 20 higher than the underlying market price and we've
 21 been through that before and that is ultimately
 22 called -- contributes to stranded costs and above
 23 market payments and we look a little bit like
 24 simpletons which we did before restructuring and

1 we're still paying for some of those above-market
 2 contracts today in our stranded costs.
 3 So that's the concern is we really
 4 don't have a very good forecast of what the
 5 market price is going to be. I think it's a
 6 concern for the developers. It's certainly a
 7 concern for us as a contractor or as a potential
 8 buyer. So the solution in the regulations that
 9 we worked out was to say okay, Narragansett, in
 10 the near term when we know we're going to be
 11 short we'll in fact go out for bid but we'll bid
 12 out for a longer period and we'll make those
 13 longer periods -- and we'll have the right to
 14 commit while we're still providing the standard
 15 offer service and then provide the market with
 16 the opportunity to contract for the remainder of
 17 the period and that's the solution and the
 18 compromise that's reflected in the rules.
 19 Now, some people still aren't quite
 20 happy with that, but I think it's -- it may be
 21 helpful just to hand out the DOE -- the
 22 Massachusetts DOER's forecast. It came from
 23 Jonathan's excellent roundtable that he carries
 24 on every month and there's also a report on the

1 DOER's website, but it gives you an indication of
 2 at least their view of the supply and demand in
 3 New England, and it's a power point chart so it's
 4 fairly easy to read. So I'll pass those around
 5 if I might.
 6 DR. RAAB: So I think John was going to
 7 just walk through a little bit the nuts and bolts
 8 on how Section 8 works and then I'll turn it over
 9 to Dennis for long-term contracting from many
 10 person's perspectives.
 11 MR. WARSHAW: John Warshaw from
 12 Narragansett Electric and National Grid Company.
 13 What the group put together was a set of
 14 standards that are flexible, that allow the
 15 Commission to set the requirements of the
 16 renewable energy standard both now and going into
 17 the future to be able to factor in future market
 18 developments and future Commission issues and
 19 Commission policy. So that's basically what the
 20 group came up with. We developed a set of
 21 contract standards that are suggested, we came up
 22 with an annual compliance plan and the annual
 23 compliance plan is where the obligated entities,
 24 Narragansett Electric is one of them, would

1 propose how they would go forward to procure
 2 renewable energy to meet the renewable energy
 3 standard and this would be, you know, as part of
 4 an open proceeding where the Commission could
 5 review the plan, make modification, order
 6 modifications to the plan, allow interested
 7 parties to participate to be able to provide
 8 their input and we felt that this was a good
 9 place to be able to allow input for changing
 10 market conditions.

11 What we also put in place is a way to
 12 address Narragansett Electric's specific standard
 13 offer obligation. We currently have contracts
 14 that were signed back in -- at the time of -- in
 15 the '70s. These contracts do not provide any
 16 renewable energy standard within them, they're
 17 just strictly providing the energy that's sold to
 18 customers on standard offer. What we put
 19 together was a way of allowing National Grid and
 20 other entities to go out and meet the standard
 21 offer obligation over the remaining period which
 22 is through 2009 and at the same time request
 23 proposals from suppliers for meeting -- for
 24 selling RECs past 2009. We are -- also as part

1 of the plan we would be looking to get potential
 2 buyers who would have expressed an interest in
 3 buying RECs over the longer term to review these
 4 proposals and we would be almost like a
 5 matchmaker. We would be able to introduce A to B
 6 and then we would step outside of that for that
 7 purchase of that, that would be after the
 8 standard offer period. We also would be looking
 9 to share that information with the EDC, with the
 10 Division and with the State Energy Office. And
 11 basically what we look at is having
 12 Narragansett's obligation go out through 2009
 13 when the standard offer period ends, and as far
 14 as meeting the load that's unknown which is last
 15 resort service and whatever obligation the
 16 obligated entities have after -- Narragansett
 17 Electric would have after 2009 would be met with,
 18 again, through the standard procurement plan, the
 19 annual procurement plan filing and process.

20 DR. RAAB: Okay. So I think we were
 21 going to turn it over to Dennis who wanted to
 22 talk about the role of the electric company
 23 during the out period.

24 MR. DUFFY: Sure. Well, I think it's

1 fair to say what's been proposed is a fairly
 2 practical RFP type process to consider bids, but
 3 what it doesn't really do is address or resolve
 4 the great issue of the day. Probably the most
 5 important issue in the proceeding is that whether
 6 the utilities have an exclusively short-term
 7 purchase obligation or a long-term obligation.
 8 And that really goes to the heart of the whole
 9 case and I think as pointed out in the materials,
 10 I think a majority of the parties in the
 11 proceeding agree with the position that the
 12 statutory intentions would be better served if
 13 the utilities were required to also consider
 14 longer term purchases of a term that would be
 15 more in line with the financing periods required
 16 to get new renewable projects financed and
 17 actually built.

18 Now, really maybe the key place to look
 19 at this is back to the wording of the statute.
 20 What the statute asked the Commission to do is to
 21 set up rules which include standards for
 22 contracts and procurement plans for renewable
 23 energy resources to achieve the purpose of the
 24 chapter. Again, I think we can go back probably

1 to the beginning and ask ourselves again exactly
 2 what are the purposes of the chapter and do
 3 long-term or short-term purchases better fit that
 4 purpose. And in that regard I think it's very
 5 clear what the legislature said. When they
 6 stated the purposes of the act, it's Section 3,
 7 they stated three purposes, enhancing
 8 environmental quality, first, secondly,
 9 stabilizing long-term energy prices; not
 10 minimizing short-term REC prices, it's long-term
 11 stabilization is the statutory purpose. And our
 12 position is at the most basic level exclusively
 13 short-term pricing and procurement will not meet
 14 a goal of long-term stabilization.

15 Now, the third purpose of the act is
 16 creating jobs in Rhode Island in the renewable
 17 energy sector, and again, we think that you're
 18 much more likely to meet that legislative goal if
 19 you put the type of procurement provisions in
 20 place which give the credits necessary for
 21 projects to get financed and built in Rhode
 22 Island or associated with Rhode Island where the
 23 jobs can happen.

24 So we think that when you look closely

1 at the statutory purposes, the proposal that's
2 laid out in the report which really only takes us
3 through 2009, basically by the time projects are
4 up and running we're looking at a three-year
5 window of a purchase obligation. Three years is
6 not going to make a meaningful enhancement of
7 anyone's credit profile if they need to get
8 project financing done to get the types of
9 projects built that the whole statute was
10 intended to do.

11 Now, I also understand Grid's position,
12 their position that the market may tend to crash
13 to zero or it may go back up to 50 to the cap, it
14 may tend to be one or the other and that's also
15 why we think it's in the interest of all the
16 parties rather than to risk it at \$1 or \$50, say
17 if there's someplace in the middle where both
18 parties could agree that a long-term, more stable
19 price would be in everyone's interest and more
20 consistent with the objectives of what the
21 legislature was looking for.

22 I also feel very strongly that this is
23 a legislative directive. It's not being done at
24 the initiative of a motion of the local utility,

1 so I think when -- if and when this does go
2 forward, make a long-term commitment pursuant to
3 a legislative directive that their shareholders
4 should not be placed to the risk of a hindsight
5 review on that and I think the key to that may be
6 getting pre-approval or Commission review of the
7 commitments as and when they're made, but I do
8 understand; I don't think the shareholders of a
9 utility should be placed at risk.

10 I also think if we take a step back to
11 where we are today, today the Algonquin delivered
12 price of gas is over \$13. The forward gas prices
13 for New England -- forward gas prices for this
14 heating season are posted over \$12, that's at the
15 hub; plan on another \$2 to get it here. We're at
16 a time of extreme energy volatility. One of the
17 things that you can get when you do long-term
18 contracts with renewable producers is the price
19 hedge of a stable, long-term price perhaps for
20 energy and RECs from a producer who doesn't take
21 any risk in the fuel markets and if you look at
22 the overall volatility that the consumers are
23 facing, again, we really believe that the
24 long-term contract with renewables that don't

1 include a fuel ladder can overall reduce the cost
2 to consumers but certainly stabilize them over
3 the long term.

4 DR. RAAB: I want to just turn it over,
5 as you'll probably read in the first paragraph,
6 there were sort of three groups when we come down
7 to it at the end and I wanted to just give the
8 Energy Office and PP&L to maybe distinguish their
9 position from the others. Bob?

10 MR. GRACE: I would like to start by
11 building onto something that Tom had just said.
12 He had laid out a position where National Grid
13 would find it imprudent to do something other
14 than wait around for the market to crash or
15 rather there was some risk by entering into
16 contracts at a price that they were foregoing at
17 a time when prices would crash to zero.
18 Ultimately, there's no chance that you're going
19 to have a market that could sustain itself over
20 time or in any great volume at zero without
21 somebody building projects, and to get those
22 projects built you're going to need the
23 contracts, the credits, the investment to get the
24 projects built. It's kind of a chicken and egg

1 problem that we can't ignore. You only get to
2 the short-term zero prices if there's been a lot
3 of building which means somebody's actually been
4 buying it and creating the incentive to invest.

5 The State Energy Office believes for a
6 number of reasons that at least in the current
7 market end requirement long-term contracts are
8 very important to minimize the cost of renewables
9 to customers. There's a lot of evidence that the
10 cost of renewables, because they're so capital
11 intensive, will come down the longer the contract
12 is much like with a home mortgage. Your annual
13 payments are going to be cheaper with a 30 than a
14 10-year mortgage. Your renewable energy prices,
15 all else equal, would be less with a 15 or
16 10-year contract than with a one or five-year
17 contract for the same reasons.

18 The State Energy Office also has a
19 statutory obligation in the RES statute to
20 coordinate with the PUC and with Economic
21 Development Corporation to minimize the cost and
22 maximize the impact of the combined system
23 benefit charge that the Energy Office is
24 responsible for as administrator of the renewable

1 energy fund and the RES, and for that reason that
 2 really leads to framing the position here. The
 3 Energy Office is very much in favor of long-term
 4 contracts and in the face of National Grid's
 5 position and taking that position and their
 6 concerns over how long their obligations are
 7 going to go forward, we participated in the
 8 negotiation of this settlement language which I
 9 think achieved a number of particular benefits.

10 It does lead to making both short and
 11 long-term prices available for analysis and
 12 ultimate presentation on and justification before
 13 the Commission and it's our belief that those
 14 long-term prices are going to or the prices
 15 associated with long-term commitments will prove
 16 to be far more attractive over the course of this
 17 process than the short-term prices, and to the
 18 extent that the Commission agrees with National
 19 Grid's perspective on how long they should be
 20 contracting for, at least to provide us with the
 21 opportunity to come together, the short-term
 22 buyer and long-term buyer and to long-term
 23 prices. It gets around to what today is a market
 24 failure in other states, Massachusetts in

1 particular. Utilities, National Grid and others
 2 have been buying short term, developers of
 3 generation have been looking for those long-term
 4 contracts. The mechanism by which the primary
 5 buyers that are serving the vast majority of load
 6 are buying effectively shut or divide the market
 7 in a way that's very difficult for generators. A
 8 generator is going to be going around looking for
 9 somebody to sign a contract. The person who buys
 10 small load is not going to be signing those
 11 contracts, they're looking for somebody else to
 12 do it. If they're able to find somebody who
 13 might be interested in that contract for the
 14 longer term those are almost guaranteed to be
 15 shut out of the short-term market because the
 16 utilities are buying by RFP on a short-term basis
 17 and those buyers will change every six months or
 18 a year or two years and this proposal creates an
 19 opportunity to bring that together where
 20 ultimately the party that may be willing to enter
 21 into the longer term contracts can actually
 22 become part of the process and even step into a
 23 long-term contract and be able to sell to
 24 National Grid on a short-term basis enabling a

1 solution to what so far has been a market
 2 failure.

3 It also creates an opportunity for the
 4 State Energy Office as administrator of the
 5 renewable energy fund to fulfill its mission.
 6 The fund has its SEC checks, has as a result of
 7 this statute gone through its own strategic
 8 planning process and determined that it's
 9 important for it to spend a material amount of
 10 its funds towards minimizing the cost of the RES
 11 to ratepayers and assuring that generation will
 12 be available to meet the RES goals. So the
 13 program that's identified here creates an
 14 opportunity for the funds to come in in a process
 15 where there are prices proposed and parties
 16 interested in contracting and for the funds to
 17 potentially create incentives or make incentives
 18 available to the market to entice parties to
 19 enter into those long-term contracts, so it meets
 20 -- it creates an opportunity for the fund to
 21 fulfill its statutory goals.

22 DR. RAAB: Let me ask. You've heard
 23 the three positions, if you will, on this
 24 long-term contracting issue. I wonder if you had

1 any follow-up questions. We can also hear from
 2 other stakeholders on it if you'd like.

3 THE CHAIRMAN: Here's what troubles me.
 4 I think you may need a statutory amendment to
 5 permit you to have contracts that go past the end
 6 date. I mean, you're asking us to by rule permit
 7 a ten-year contract or past the expiration date
 8 in the statute itself, and I can understand why
 9 you're doing that, but it seems to me that that
 10 is something that should have been in the statute
 11 and gone through the General Assembly, and unless
 12 I have good reason otherwise, I would be
 13 reluctant to adopt any regulation which seems to
 14 me to be amending the statute.

15 MR. LUEKER: I don't believe it would
 16 require any amendment to the statute if they
 17 enter into long-term contracts for purchase of
 18 electricity now and all the rule would be doing
 19 would be actually, at least as we would propose
 20 it, would be to consider entering into long-term
 21 contracts to purchase electricity just like they
 22 are now.

23 THE CHAIRMAN: But that was pursuant to
 24 a statute which provides for the expiration of

1 these contracts in 2009. That's clear in the
2 statute. You're asking us to adopt a rule which
3 will permit the parties to engage in a contract
4 which will expire ten years after the date upon
5 which we are required to have renewable portfolio
6 standards. That sounds to me like you're asking
7 us to amend the statute.

8 MR. LUEKER: But they can enter into
9 that kind of a contract right now for ten years
10 if they wanted to purchase electricity over that
11 period of time. It's just a question of who
12 they're buying their electricity from.

13 MR. GRACE: Chairman Germani, it seems
14 to me like perhaps we're confusing or overlaying
15 two separate issues. Are you referring to the
16 issue we talked about earlier where after 2019 we
17 would be potentially placing the concept of
18 indefinitely subject to a Commission order?

19 THE CHAIRMAN: Yes.

20 MR. GRACE: I believe that's a separate
21 issue entirely. That really goes to how long the
22 targets stay in place for. This issue that we're
23 talking about in Section 8 is really
24 fundamentally different and it goes to not the

1 targets themselves but how the obligated entities
2 go about procuring to meet those targets.

3 THE CHAIRMAN: Let me just see if I
4 understand this correctly. If the expiration
5 date set in the statute is 2019 for the renewable
6 standards, then why -- you are asking us to
7 authorize you to enter into contracts which go
8 past 2019, aren't you?

9 MR. GRACE: The expiration that
10 National Grid is talking about here is 2009, the
11 expiration of their standard offer obligations.
12 So at this point --

13 THE CHAIRMAN: I can understand that.
14 Maybe I'm asking a separate question. Earlier
15 you talked in terms of permitting by the rules
16 long-term contracts which I understood would go
17 past 2019, am I correct?

18 MR. CHAIRMAN: Mr. Chairman, not
19 necessarily. It would be fine if they did, but a
20 contract through -- a contract through that date
21 of 2019 would also be sufficiently long to give a
22 very sound basis for project financing.

23 THE CHAIRMAN: Aren't you asking us to
24 permit you to do contracts in the regulation,

1 authorizing contracts to 2029?

2 MR. DUFFY: I had not thought of that.
3 I had not in my mind thought that we were looking
4 for contracts going out beyond 2020. We'd
5 certainly like it, but we had not envisioned
6 that.

7 THE CHAIRMAN: Then it's not clear to
8 me. Maybe I'm missing something here. It's not
9 clear to me.

10 MR. C. EATON: This may help. The
11 statute provides that it keeps running after 2019
12 unless you take action.

13 THE CHAIRMAN: Okay. Go.

14 MR. C. EATON: So at 2020 the standard
15 stays the same and forever unless the Commission
16 deems to do something else. So I would argue
17 that it keeps going.

18 MR. DUFFY: I think it's also important
19 to point out that the majority of the positions
20 that most of the parties signed onto didn't
21 specify exactly what would constitute long term.
22 If it would go beyond 2020, I think there are
23 people who would support that, but still a
24 contract which would run from 2005 to 2019 would

1 also satisfy that majority position and would be
2 a basis to do project financing.

3 THE CHAIRMAN: My concern is that we do
4 not take action pursuant to a rule which can be
5 successfully challenged in court.

6 MR. DUFFY: Understood.

7 DR. RAAB: Tom?

8 MR. ROBINSON: I just wanted to address
9 a little bit of the statutory concerns that we
10 had. First, as I indicated, what we're trying to
11 do in this proposal is to match our renewable
12 purchases with our power procurement obligations
13 and for last resort service because we're going
14 out with a new bid RFP every six months or so.
15 We would presumably, and have in Massachusetts,
16 for example, bundled in the RECs with the energy
17 and allow the wholesale market to pick the most
18 efficient project which represents the sum of the
19 two. It's only the standard offer where we don't
20 have the RECs covered because those are residual
21 legacy contracts.

22 With regard, however, to the statute,
23 there's nothing in that statute that requires
24 Narragansett to execute a long-term contract. No

1 where does it say that. There's no where in the
 2 statute that requires the EDC to execute a
 3 long-term contract. They have authority, the EDC
 4 has authority to execute a long-term contract to
 5 use their alternative compliance payments, but
 6 they are not required to. It's a matter for
 7 discretion given what the market is. If the
 8 market is wildly successful, there's no reason
 9 for them to execute a long-term contract.

10 THE CHAIRMAN: Let me ask the question
 11 in a reverse way, and correct me if I'm wrong.
 12 You're not going to get competitive generation
 13 built effectively until you can get the financing
 14 from Wall Street and Wall Street is looking -- is
 15 looking for a long-term contract upon which to
 16 finance it. Am I wrong?

17 MR. ROBINSON: We've had discussions
 18 with many wholesale suppliers who are executing
 19 long-term contracts with renewable developers.
 20 They may not be quite as rich or generous as the
 21 long-term contracts we had in the old days, they
 22 face their own market pressures, but there are
 23 suppliers out today. I've heard them testify in
 24 a legislative proceeding in Massachusetts.

1 Constellation testified that they're signing
 2 long-term contracts and that the problem is with
 3 the renewable development today isn't the lack of
 4 long-term contracts, it's the inability to get
 5 permits and the inability to be able to actually
 6 build the projects to add the supplies much more
 7 than the long-term contracts.

8 What we should be doing I think both
 9 here and in the capacity and energy markets as
 10 well is let the markets work and what we have is
 11 we have a legally mandated purchase obligation
 12 which is already tilting half of the equation for
 13 the renewable energy suppliers, but at least we
 14 should allow the market to work to the extent
 15 that it can rather than have a legally mandated
 16 long-term contract. That's our view.

17 And in addition to that, our view is we
 18 shouldn't be buying RECs. We aren't supplying
 19 the load and we shouldn't be buying RECs above
 20 the market price in any event. That just doesn't
 21 -- that's not a sensible position for
 22 Narragansett to be in given the other complexion
 23 of legislation that requires us to exit the
 24 generating market, open our retail markets to

1 other suppliers and allow them to provide it more
 2 effectively. There's no reason why they
 3 shouldn't provide RECs more effectively just like
 4 they provide energy more effectively. That's why
 5 we're having a resistance to signing long-term
 6 contracts as Narragansett.

7 Now, what we are willing to do is cover
 8 our obligations through the rules and through the
 9 annual plans. To the extent we have obligations
 10 that extend beyond the standard offer, we'll
 11 still be an obligated entity. We'll still be
 12 filing a plan. It will be a REC plan but we also
 13 have an obligation to file a last resort plan
 14 with the Commission, and what we'll do is we'll
 15 tie them both together so that we're buying
 16 energy at the same time we're buying RECs and
 17 doing it all as economically as we can to get the
 18 RECs out in front of the energy is not the most
 19 efficient procurement pattern. And we do have an
 20 annual obligation under the statute to file for
 21 last resort service. We just think that those
 22 should be harmonized and that we shouldn't rush
 23 into long-term contracts, particularly since the
 24 Massachusetts Department of Energy Resources

1 should have adequate supplies without long-term
 2 contracts by distribution companies.

3 THE CHAIRMAN: Are you willing to bet
 4 your mortgage on that?

5 MR. ROBINSON: Luckily, I don't have to
 6 bet my mortgage on it, but I'll tell you what, as
 7 Dennis says, if it's \$14 per mcf for gas and the
 8 energy market is trading at nine or \$.10 a
 9 kilowatt hour for electricity, based on those
 10 high gas and oil prices, the renewable supplier
 11 will bid in zero because they want to be
 12 dispatched but they get the nine or \$.10 from the
 13 electric markets and they need the REC a lot less
 14 today than they did a year ago.

15 THE CHAIRMAN: Is that supposed to make
 16 me feel comfortable? Is that the reason they
 17 don't need this is because the price is going to
 18 go up so high?

19 MR. ROBINSON: So in order to fairly
 20 evaluate the market, you have to look at energy
 21 prices and you have to bundle them together.
 22 Allowing us to procure energy, at the same time
 23 to procure RECs or consistently the way we
 24 procure RECs allows us to do the most efficient

1 procurement.

2 THE CHAIRMAN: The General Assembly has
3 spoken. What the national should do is go back
4 to nuclear power in a better form. Look at coal
5 gasification and that would be another way of
6 dealing with the problem. And I'm not convinced
7 that renewable is the -- you know, it's the
8 latest brand of salvation. Theology changes
9 everyday. Today it's renewable, tomorrow it's --

10 MR. ROBINSON: It was gas a couple
11 years ago.

12 DR. RAAB: As the mediator, I just need
13 to correct one thing for the record is that we
14 haven't listed the parties here that support the
15 first -- until the last minute was sort of more
16 than the consensus proposal. Mr. Duffy has
17 characterized his position as the majority which
18 actually isn't true. The group was totally split
19 on the first two depending on how you count the
20 last position.

21 THE CHAIRMAN: There are separate
22 opinions here?

23 DR. RAAB: Just how it's characterized
24 in terms of supporting the approach in 8 without

1 for different services, but again, it's been
2 characterized that that's efficient and
3 consistent with market.

4 Well, it's consistent with one market
5 price which is the spot price, the short-term
6 price. In any given day in any commodity there
7 are many market prices. There are long term,
8 medium and short and that's why we think it's
9 absolutely consistent with market theory to go
10 out and hedge positions by not being exclusively
11 in any one market, be it long or short,
12 especially when we see the great volatility in
13 the markets today.

14 And finally, I also understand that
15 there's an issue of possible customer migration,
16 but that's not unique to Rhode Island, it's not
17 unique to this company or even the electric
18 industry. Gas companies deal with it everyday in
19 the restructured environment, so do electric
20 companies. That's not a unique issue and it's
21 not a reason not to have people consider
22 long-term commitments. Many other utilities very
23 effectively have diversified their supply
24 portfolios both for supply, pipeline,

1 requiring the utility to consider long-term
2 contracting. There are also five parties
3 supporting that, so the group is really split.

4 MR. ROBINSON: I tried to call Thomas
5 Acquino over lunch and he didn't answer the
6 phone.

7 MR. C. EATON: He just doesn't answer
8 your calls, Tom.

9 MR. DUFFY: I had a few words with him.
10 Mr. Chairman, if I may, I just want to respond to
11 a couple of points. Our friend is correct that
12 the statute doesn't mandate utilities to make
13 long-term purchases, but what it does do is
14 direct the Commission to adopt by regulation
15 standards for contracts and procurements to
16 achieve the purposes of this chapter. As I
17 pointed out earlier, specifically, the purpose of
18 the chapter is not short-term minimized price for
19 RECs. It's long-term stabilization of energy
20 costs. So I think when you look at what the
21 legislature actually said, their objective is a
22 long-term objective, not a short-term objective.
23 And I understand also that the utility currently
24 is going out for short-term purchases of energy

1 transmission, commodity supply bought
2 jeopardizing the robust nature of a restructured
3 market. We can work around that.

4 THE CHAIRMAN: The robust nature of the
5 restructured market?

6 MR. DUFFY: Yes. Robust competitive
7 market will not be undercut by a portion of
8 long-term contracts.

9 DR. RAAB: Let me just ask if the
10 Commission has any other questions on this
11 contracting issue. We have another issue in
12 Section 8.

13 MS. WILSON-FRIAS: Jonathan, I do. On
14 some of the areas where you -- where the group
15 did not come to total consensus there was
16 alternative language provided. It does not
17 appear that there was alternative language
18 provided on this issue. Was that something that
19 you decided to leave out or was there never
20 alternative language discussed?

21 DR. RAAB: Well, I think the language
22 is basically embodied in the dissent here which
23 is that the obligated entities should also be
24 required to consider procurement of renewable

1 energy over longer periods of time.

2 MS. WILSON-FRIAS: I guess my question
3 is where would that go in the existing document,
4 under which part of 8?

5 DR. RAAB: It would probably go under
6 the 8.5 in dealing with what we're calling the
7 third time period.

8 MS. WILSON-FRIAS: Third time period.

9 MR. DUFFY: We were up against a very
10 specific filing deadline, so if it would be
11 helpful, we can draft some specific language and
12 submit it, but we were under a lot of time
13 pressure on this issue.

14 MS. WILSON-FRIAS: I'm not sure if that
15 will be necessary. It might be one of those
16 things that if the Commission does decide to go
17 in that direction, that you'll have to address it
18 in your written comments.

19 MR. LUEKER: It's also probably worth
20 noting that we're asking that the utility company
21 consider entering into long-term contracts, not
22 that they be mandated to enter into long-term
23 contracts.

24 MS. WILSON-FRIAS: That's what's

1 back the percentage of standard offer load over
2 time is in those documents?

3 MR. ROBINSON: I know in the last -- or
4 in the last resort filings we provide the percent
5 of load by class. I expect we could provide that
6 for standard offer as well if it isn't in one of
7 the filings already.

8 MS. WILSON-FRIAS: Okay. If I need a
9 data request, I'll do that.

10 MR. ROBINSON: Okay.

11 MS. WILSON-FRIAS: And it's not
12 Narragansett's position that long-term contracts
13 would be prohibited by the statute, right?

14 MR. ROBINSON: It's not -- Narragansett
15 -- it's Narragansett's position that long-term
16 contracts can't be mandated under the statute,
17 but if Narragansett wished to enter a longer term
18 commitment, I think it could under the statute,
19 but the point is is that in our view anyway it
20 should be consistent not only with the -- it
21 should be consistent with its purchase
22 requirements under the last resort service plan
23 as well. So it would be a separate procurement
24 here, but I suppose we could if it were -- I

1 contained here or that's what the Division's
2 position as contained in that first sentence?

3 MR. LUEKER: That's the Division's
4 position and several of the parties. That's set
5 out in the note. And that doesn't require a lot
6 of modification of the language that's proposed.
7 You could put a sentence to that effect in 8.2
8 talking about procurement plans, because that's
9 really what we're talking about doing, putting a
10 procurement plan together with the utility or the
11 obligated entity to actually consider the
12 potential benefits of at least some long-term
13 contracts or a mix of long and short-term
14 contracts that they address it so that they're
15 making an informed decision as to what's in their
16 best interest in terms of complying with these
17 rules as well as the best interest of all the
18 ratepayers and the shareholders.

19 MS. WILSON-FRIAS: So one of those two
20 sections is what is suggested. The other
21 question I had is actually for Narragansett. Do
22 you know what -- do you know if or do you
23 remember if in the last resort filings or the
24 standard offer filings whether or not if I go

1 mean, I think we have discretion under the
2 statute. It's not precluded to enter into
3 long-term contracts.

4 MS. WILSON-FRIAS: So you're not
5 prohibited from entering into long-term contracts
6 under this statute?

7 MR. ROBINSON: That's correct. Sorry.
8 I was too convoluted on that.

9 MS. WILSON-FRIAS: Thank you, Jonathan.

10 DR. RAAB: So we wanted to turn to the
11 second issue in Section 8 which was in -- whether
12 or not the contracting standards and procurement
13 plans that are described in Section 8 should also
14 applicable to the renewable energy development
15 fund as administered by the EDC and John Farley
16 from TEC-RI was going to describe that position
17 and then Andy was going to respond to it.

18 MR. FARLEY: Thank you very much.
19 First of all, I wanted to set the stage for this
20 by identifying who we are, what our interests are
21 in this rulemaking session. We represent large
22 users of electricity in the State of Rhode
23 Island, about 50 members representing about
24 70,000 jobs, and really, our focus here is to on

1 the one hand understand the possible benefits of
 2 this in terms of additional generation and
 3 environmental attributes and at the same time to
 4 hold the line on any rate increases that could
 5 result from this to make sure -- in that regard
 6 to make sure that the costs are prudent, because
 7 ultimately, it will always be the Commission who
 8 is responsible for rate increases and those will
 9 be tied to costs that are prudently incurred.

10 With that in mind, I don't share the
 11 optimism of some folks that we are not going to
 12 have a shortage of available generation for
 13 renewables for a couple of reasons. One is that
 14 while we've heard examples of other states, I
 15 think that Rhode Island is unique in a couple of
 16 ways. One is that we're in a region of the
 17 country that does not have ample natural
 18 resources like other parts of the country that
 19 could be turned into renewable supply. Secondly,
 20 our rate of increase far exceeds those of other
 21 states that have been used as examples. We're
 22 going from a state that has about two percent
 23 renewables up to 16, that's an increase of
 24 14 percent, and that could have a major impact on

1 rates in the state and we're a small player in a
 2 big market and I would just suggest as a matter
 3 of course that we should watch what's happening
 4 in Massachusetts because they are the 800-pound
 5 gorilla and whatever is happening there we're
 6 just going to have to deal with. Whatever
 7 happens in that market we'll be held captive to
 8 it.

9 Our concern is what happens if there's
 10 chronic shortages. There will actually be quite
 11 a lot of money that will go from ratepayers to
 12 the Economic Development Corporation. I think we
 13 heard earlier in Section 7.3 that obligated --
 14 I'm reading verbatim, obligated entities to enter
 15 into prospective agreements ahead of time, in
 16 effect subcontracting compliance to the Economic
 17 Development Corporation, and that was actually
 18 assented to by other parties as to the
 19 interpretation of that. So with that in mind, we
 20 believe that it's to protect ratepayers' interest
 21 that whatever can be done in order to make sure
 22 that that money is prudently expended will be in
 23 the interest of the Commission as well as in the
 24 interest of ratepayers.

1 Now, that said, it doesn't really
 2 matter if it's not allowed by the statute. And
 3 this is a matter ultimately of legal
 4 interpretation, but our view is that it actually
 5 is allowed, and I think Section 39-26-6(2) is
 6 becoming the equivalent of the Interstate
 7 Commerce clause in the United States Constitution
 8 because we're using it for several things. But
 9 the fact of the matter is it does say that the
 10 Commission is to have provisions in the
 11 regulations that set standards for contracts and
 12 procurement plans for renewable energy resources
 13 to achieve the purposes of this chapter and it's
 14 a general statement; it doesn't say contracts and
 15 procurement plans for obligated entities. It's a
 16 general statement, to achieve the purposes of
 17 this chapter, and I would argue that if under one
 18 of these scenarios the Economic Development
 19 Corporation becomes the entity which will be
 20 charged with achieving the purpose of this
 21 chapter, then their contracts and procurement
 22 plans ought to have standards, and therefore,
 23 since the Commission is the one who is the one to
 24 promulgate those standards, those standards would

1 apply to that component of the implementation of
 2 this law and that's the basis for what we're
 3 saying.

4 In addition to that, there are other
 5 places here where the obligated entities are
 6 enumerated and mentioned under what is the
 7 authority of the Commission and the fact that
 8 they're not mentioned is limiting. This No. 2, I
 9 think adds weight to the fact that it could be so
 10 applied.

11 In addition to that, in the section
 12 that talks about the Economic Development
 13 Corporation itself in Section 7 it talks about
 14 the Economic Development Corporation entering
 15 into agreements with obligated entities to accept
 16 these payments that are our concern, and it says
 17 it has to be consistent with rules of the
 18 Commission, and indeed, that's all we're arguing.
 19 We're arguing that whatever payments are made,
 20 that those agreements be made in accordance with
 21 the rules of this Commission and the purposes set
 22 forth. So that's our case. I'm not an attorney
 23 but I am charged with representing the interests
 24 of ratepayers and it seems to me that this is a

1 prudent step to take.

2 MR. C. EATON: I guess I'm next. I'm
3 going to speak for Andy.

4 MR. DZYKEWICZ: Let me just preface
5 Craig Eaton will be representing the -- our
6 interpretation of this statute, but prior to that
7 just to give the Commission a little comfort that
8 the EDC in executing the requirements of this
9 statute will also be going through a rulemaking.
10 In order to fulfill our responsibilities we're
11 going to have to put in place procedures as to
12 how these monies might be spent. The statute
13 itself calls for two levels of due diligence,
14 one, by a Board of Trustees which is to be set up
15 under this statute to recommend to the second
16 level of due diligence, the Economic Development
17 Commission orders how these monies might be
18 spent. Beyond that, we are anticipating two
19 additional levels of due diligence, one at the
20 staff level, then a management review before it
21 even gets to the Board of Trustees, and finally,
22 once the monies have been appropriated and spent,
23 we're subject to annual review by the legislature
24 as to how we spend any of our monies. So with

1 everyone is agreed, that we talked about in
2 Section 8, there were two or three sections on
3 exactly what those standards are.

4 Then you go to 7 and the EDC, they're
5 really charged with two things. They're charged
6 with having a contract between the obligated
7 entity and the EDC. They call it an agreement in
8 7 and they're also then taking the money pursuant
9 to that agreement and they go somewhere with it,
10 they spend it, however they're going to use it.
11 Pursuant to that in 7 there's a Board of
12 Trustees, I think it's made up of five different
13 people, including the Division of PUC. There's
14 nothing specific at all in 7 that somehow says
15 the Commission is supposed to overlap into that
16 jurisdiction and set the contract standards for
17 how that money is going to be spent, so that's
18 basically our position. And like I said, it's
19 laid out in a little mini brief and I know John
20 has his little mini submission also.

21 MS. WILSON-FRIAS: Craig, to what does
22 consistent with the rules of Commission 39-26-7
23 refer?

24 MR. C. EATON: I think that means

1 that, just to give you some sense of the public
2 nature of what this process would be with the
3 EDC, I'd turn it over to Craig to interpret the
4 -- what we think the law actually says. Thank
5 you.

6 MR. C. EATON: Thank you. I'm not
7 going to take up much more of your time because
8 there are two submissions in front of you and I
9 really think it is a legal -- you need to do a
10 legal interpretation, and Cindy is probably going
11 to have to do that, and I will say that Silent
12 Sherpa is the only other entity that is with John
13 on this, but I just want to point out that there
14 are two sections, there's 39-26-6 and 39-26-7 in
15 the law, and 6 has to do with the duties of the
16 Commission generally, and 7 has to do with the
17 fund and is generally basically EDC oriented.

18 26-6 talks about standards, the clause
19 that John talked about, standards for contracts
20 or procurement plans for renewable energy
21 resources and it's our firm belief that's
22 basically the obligated entity and the generator
23 and the contract is taking place between those
24 two and you'll see in the draft rules, I think

1 consistent with how the money is going to be
2 gathered or consistent with how the RECs will be
3 gathered, consistent with how the actual money
4 that needs to be paid in and the regulations that
5 talk about how the money is going to be gathered
6 and then ultimately given to the EDC.

7 MS. WILSON-FRIAS: This question is for
8 anybody. Usually the statute contains the word
9 trust fund. It is a payment received pursuant to
10 this section shall be trust funds. I guess I
11 don't know if the question really ties into our
12 decision, but is that money protected in the
13 sense that once it goes to EDC, it can't be used
14 for anything else, it can't be reappropriated by any
15 entity to another purpose? Is it safer than a
16 restricted account?

17 MR. STEPHENS: I think it's safe to say
18 certainly that was the intent of why that
19 language was in there. Having been involved in
20 the process the idea was to protect those funds
21 and make sure they're used exclusively for the
22 purpose of the renewable energy development trust
23 funds.

24 MR. DZYKEWICZ: I would certainly

1 caution that what the legislature giveth, the
2 legislature can taketh away. There's a lot of
3 ways that that money can be taken away from our
4 ability to spend it for the purposes intended.
5 But it's certainly our intention in our
6 regulations that we will develop around this.
7 We'll reflect that statement in our renewable
8 energy project.

9 THE CHAIRMAN: The word trust had
10 meaning, it wasn't just put in for the hell of
11 it. I know that group that calls themselves the
12 lawyers up there that draft legislation shouldn't
13 get awards for legislative drafting. I assume it
14 has some validity to it.

15 MR. DZYKEWICZ: That's actually one of
16 the particular nuances that we're going to be
17 looking at very carefully, what this actually
18 implies.

19 MS. WILSON-FRIAS: I would just hate to
20 see EDC getting this money and then EDC losing it
21 through a budget process.

22 THE CHAIRMAN: It's like the renewable
23 energy fund, huh?

24 MR. DZYKEWICZ: Yes.

1 tables themselves. There's two sheets for all of
2 you.

3 DR. RAAB: Nubia, you were going to
4 respond to those.

5 MS. PEREZ: So what Cindy was asking I
6 believe is just to go through the tables
7 themselves and explain the differences between
8 the 2006, the 2007 and 2008 tables. In the 2006
9 early compliance for Calendar Year 2006's table,
10 as you can see, it's much smaller than the other
11 two tables and some of the differences are very
12 obvious. There are no banking -- there's no
13 banking column, there's no ACP column, there's no
14 obligation columns because 2006 is not a
15 compliance year.

16 MS. WILSON-FRIAS: If I could just
17 interrupt you for a second, I'm not sure if we
18 all have the right chart. Mine just says
19 compliance for Calendar Year 2006.

20 MS. PEREZ: I just gave you guys copies
21 of 2007 and 2008.

22 MS. WILSON-FRIAS: Okay. So we should
23 be following on along in the attachment now.
24 Sorry for interrupting.

1 MS. WILSON-FRIAS: That's all I have.

2 DR. RAAB: Cindy, you had also given us
3 a question about whether the EDC supported the
4 last sentence in this book which said that the
5 EDC should publish an annual report on the use of
6 alternative compliance payments with reporting
7 requirements delineated in the EDC's rules rather
8 than the rules of the Commission.

9 MR. DZYKEWICZ: The answer is yes
10 obviously.

11 DR. RAAB: Then your last question,
12 Cindy, in the body of proposed regulations was
13 about Footnote 5 on Page 25 and that just needs
14 to be deleted. The text from there was taken out
15 and moved to Page 16 I believe as a note to the
16 Commission, so there's no footnote there anymore.

17 So with that, we're finished with the
18 draft regulations themselves and you had some
19 questions on Attachment A, Cindy, so maybe we can
20 turn to that quickly and then -- I believe you
21 were going to walk through the answers to those
22 three questions.

23 MS. PEREZ: I also have a few handouts.
24 I didn't make copies for everyone. It's just the

1 MS. PEREZ: All on the same page?

2 Okay. So again, it's just -- it's much shorter
3 because 2006 is not a compliance year is the
4 bottom line. The differences in the first
5 highlight, the similarities between the table for
6 compliance for Calendar Year 2007 and compliance
7 for 2008, and that's what I passed out. First,
8 I'll go through what Columns I, J and K mean.
9 Column I, the one percent total sales, that's the
10 percentage from new renewable energy resources.
11 Column J, the two percent is the percentage from
12 new or existing and Column K, the three percent
13 for 2007 is the total. So -- and again, the
14 differences between 2007 and 2008, one of the
15 obvious differences is that Columns I, J and K,
16 the percentages differ because every year that
17 number is going to change though Column J will
18 remain at two percent.

19 So essentially what it means is Column
20 D which is -- I put an asterisk on top -- cannot
21 be less than Column I and Column D and D must
22 equal Column K and Column E must be equal or
23 greater than Column J.

24 MS. WILSON-FRIAS: Could you repeat

1 that?

2 MS. PEREZ: Sure. Column D which is
3 new resources cannot be less than Column I.
4 Columns D plus E must be equal or greater than
5 Column K, and Column E must be equal or greater
6 than Column J.

7 MR. GRACE: Just a correction, Nubia.
8 I think Column -- you've left off the role of
9 Column F I think, the early compliance
10 certificates, and in subsequent years banking
11 certificates, it's that number added to D that
12 needs to equal I.

13 MS. PEREZ: Okay. Correction is noted.

14 MS. WILSON-FRIAS: So D plus F can't be
15 less than I?

16 MS. PEREZ: Yes. That would be
17 correct. And one final difference, this is
18 minor, the difference between table 2007 and 2008
19 would be Column F where in 2007 it's early
20 compliance certificates and in 2008 it's banked.
21 Hopefully that makes sense.

22 DR. RAAB: Is there anything else on
23 the attachment?

24 MS. PEREZ: I think you also asked in

1 Warsaw, or one of you guys can correct me if I'm
2 wrong, but the question was how long does it take
3 to receive the final reconciled values or the
4 real time obligation for RES in the New England
5 market and my understanding is it takes 90 days
6 plus you have another 30 days to input the data
7 into the GIS.

8 MR. WARSHAW: I concur with that. It's
9 about four months.

10 MS. PEREZ: And the last point, if you
11 don't mind me going back to it, you had asked the
12 question between a tradable RES credit and a New
13 England GIS certificate, whether they're the
14 same. They're actually not the same. They're
15 different. Tradable emission credits include NOX
16 and CO2, they're not traded within the GIS --
17 they're not tracked within the GIS system. The
18 New England GIS certificates identify generation
19 attributes produced during one megawatt hour of
20 generation from a renewable energy generation
21 unit. The GIS tracking system is simply whether
22 the GIS includes in the credits in terms of the
23 bilateral contract.

24 DR. RAAB: So I guess this completes

1 the REC we described an RPS program manager and
2 that's just a technicality, that's just the
3 person who administers the filings themselves.
4 She or he can also be called the compliance or
5 RPS processing officer.

6 MS. WILSON-FRIAS: Does the group have
7 any -- I don't believe that was in the definition
8 section. Does the group have any opinion as to
9 whether or not that needs to be defined even
10 though it's only in the attachments?

11 MS. PEREZ: I believe that we don't
12 feel it's necessary.

13 DR. RAAB: I don't think we were
14 proposing that this attachment be attached to the
15 regulations to give you the flexibility to change
16 it from time to time. Maybe you need to define
17 it in this stand-alone document.

18 MR. STEPHENS: I think whoever at the
19 Commission or Commission staff was responsible
20 for dealing with obligated entities.

21 MS. PEREZ: And Cindy, I believe you
22 also had one more question with regards to Column
23 C which is the total electricity sold in the
24 respective calendar years and I believe, and John

1 what we had for you and if you have any other
2 questions or thoughts that you wanted us to
3 respond to, we're here to do that. We have one
4 other present for the Commission which is for
5 Cindy in particular which is Bill Short did have
6 another very careful read after we handed it in
7 and he's got some formatting and clean-up editing
8 suggestions which we will provide to you and you
9 can look through as you're putting together the
10 regulations.

11 MS. WILSON-FRIAS: If you'd like to
12 e-mail me a copy, that would be much appreciated
13 or did you write them?

14 DR. RAAB: It's all handwritten.

15 MS. WILSON-FRIAS: If people don't have
16 any other questions, before I accept -- Jonathan,
17 maybe this has already been said, but since I
18 wasn't here this morning I want to say it now. I
19 said to Jonathan before I sent the e-mail that
20 overall I thought that this document showed that
21 a lot of hard work had gone into it and I got
22 something that, although it took me a while to
23 get through it, I actually think I understand
24 which was really the goal of this because I think

1 had the Commission had to sit down and do this
 2 with one single consultant, we would not have
 3 ended up with this kind of product this quickly,
 4 and so I think that the process so far has worked
 5 quite well and I appreciate all of Jonathan's
 6 work and all of the work everybody else who I
 7 know attended a lot of long meetings and I'm sure
 8 there were heated discussions at times, but it
 9 looks like a really strong piece of work came out
 10 of this, so at least from my staff position, I
 11 want to thank everybody.

12 DR. RAAB: Cindy, could you just
 13 clarify for everybody who's been asking me
 14 exactly what the process is going forward and
 15 when it would be appropriate for them to provide
 16 additional comments at a later date?

17 MS. WILSON-FRIAS: Well, what happens
 18 next is that the Commission will issue proposed
 19 regulations officially. It will be noticed in
 20 the newspaper. It will happen at an open
 21 meeting. It won't say the parties disagree on
 22 this. We'll actually have to print something.
 23 At that point the clock starts running. There
 24 will be an initial 30-day comment period

1 following that, following notification in the
 2 newspaper that the rules have been proposed.
 3 You'll also, as members of service list, receive
 4 notification that the rules are up on the website
 5 for review. You can send in written comments.
 6 The deadline will be posted as well. There will
 7 also be a hearing, and I don't have my calendar
 8 in front of me, it's in October, I believe it's
 9 on a Wednesday.

10 MR. HARTLEY: I think it's the 12th.

11 MS. WILSON-FRIAS: I believe it's
 12 Wednesday, October 12th, probably at 9:30 where
 13 if you want to provide any verbal comments or
 14 come and see if anybody else shows up to provide
 15 verbal comments and written comments are accepted
 16 up until the deadline.

17 Then what will happen is the Commission
 18 will look at all the comments, see if the changes
 19 -- if it needs to make any changes, if those
 20 changes are technical or substantive. If the
 21 changes are technical, the Commission will
 22 approve the rules and then they'll be filed at
 23 the Secretary of State's Office January 1st. If
 24 there are substantive changes that would alter

1 the rights of the parties or the obligations of
 2 the parties outside of what was commented to or
 3 what we've discussed today, there would be
 4 another comment period. That has happened in the
 5 past. It doesn't usually happen. But that's
 6 what the process looks like going forward.

7 DR. RAAB: Okay.

8 COMMISSIONER HOLBROOK: Does anyone
 9 else have any other comments for record or any
 10 closing statement by anybody?

11 MR. SHORT: Not really a closing
 12 statement, per se, but we're going to have our
 13 tour of the Johnston landfill. You're all
 14 invited. Some of you have accepted to come.
 15 I've got the agenda here. I understand all of
 16 you are Rhode Island residents with few
 17 exceptions, so I don't think you need directions
 18 to the landfill itself. It will take about two
 19 hours. You'll find it quite informative. It's
 20 Rhode Island's largest renewable energy resource.
 21 It's actually about the largest facility that's
 22 been added of renewable energy in New England
 23 since the start of deregulation. So I think
 24 we'll have a good presentation and excellent

1 tour.

2 COMMISSIONER HOLBROOK: I would thank
 3 everyone for your attendance. An excellent job
 4 has been done, I'm sure we'll hear more about it
 5 in the future, and if there are no other
 6 comments, the meeting is adjourned.

7 (ADJOURNED AT 2:55 P.M.)
 8
 9
 10

11 C E R T I F I C A T E

12
 13 I hereby certify that the foregoing is
 14 a true and accurate transcript of the hearing
 15 taken before the Rhode Island Public Utilities
 16 Commission, on August 31, 2005, at 10:30 a.m.
 17
 18

19 _____
 20 JO ANNE M. SUTCLIFFE, RPR/CSR
 21 Notary Public, State of Rhode Island
 22
 23
 24

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