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January 17, 2007

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

**Re: National Grid Renewable Energy Standard Procurement Plan
Docket No. 3765**

Dear Luly:

Enclosed are ten copies of my direct testimony on behalf of Cape Wind Associates, LLC in Docket 3765. Copies are being sent to the service list in both electronic and hard copy format. Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in blue ink that reads "Dennis J. Duffy". The signature is written in a cursive style and is positioned above the printed name.

Dennis J. Duffy
VP Regulatory Affairs

cc: Service List

**Energy Management, Inc. / Cape Wind Associates, LLC
Docket No. 3765
Renewable Energy Standard Procurement Plan
Testimony of Dennis J. Duffy**

DIRECT TESTIMONY

OF

DENNIS J. DUFFY

JANUARY 17, 2007

**Dennis J. Duffy
Energy Management, Inc.
75 Arlington Street, Suite 704
Boston, MA 02116
(617) 904-3100**

I. Introduction

Q: Please state your name and business address.

A: My name is Dennis J. Duffy, 75 Arlington Street, Boston Massachusetts 02116.

Q: Please state your business position.

A: I am the Vice President of Regulatory Affairs of Energy Management, Inc (“EMI”), one of New England’s leading developers of energy projects. EMI has developed and operated six major generating projects in New England, and is now developing the nation’s first offshore wind energy project for Cape Wind Associates, LLC (“CWA,”) which would generate up to 460 MW of renewable electricity with no emissions. CWA was an active party in the prior Docket 3659, In Re: Rules and Regulations Governing the Implementation of a Renewable Energy Standard, and CWA has also petitioned to intervene in this proceeding.

Q: Please describe your educational and professional background?

A: I hold a B.A. from the University of Rhode Island and a J.D. from Columbia University Law School. I have practiced energy law for more than twenty years and have represented a wide variety of energy companies before state and federal regulatory agencies, including the Rhode Island Public Utilities Commission (“Commission”) and the Rhode Island Energy Facility Siting Board. I also participated in the project finance transactions relating to the above-referenced EMI projects.

Q: What is the purpose of your testimony?

A: I offer several comments on the Renewable Energy Standard Procurement Plan proposed by Narragansett (“Proposed Plan”) in this proceeding.

II. Long-Term Contracts

Q: What is your primary comment?

A: My primary concern is that the Proposed Plan does not provide for long-term purchases of renewable energy or renewable energy credits (“RECs”) and is thereby inconsistent with the legislative objectives of Chapter 39-26, the Commission’s prior Order in Docket No. 3659, and the Commission’s Rules and Regulations Governing the Implementation of a Renewable Energy Standard (the “Regulations”), which require at Section 9.3 that an Obligated Distribution Company’s procurement procedures “includ[e] long-term contracts which shall be made a part of the Obligated Distribution Company’s portfolio.” I previously submitted extensive Post-Hearing Comments on this issue in Docket No. 3659, which I incorporate herein by reference. Most importantly, after carefully considering both sides of the issue (including the objections of Narragansett based upon possible load migration and “stranded costs”) the Commission expressly concurred that Narragansett’s procurement plans should include provisions for the long-term contrasts for the purchase of renewable energy, as follows:

With regard to the issue of contract procurement by National Grid, in the proposed Rules, the Commission required National Grid’s annual procurement plan to include long term contracts as part of its portfolio. Those in favor of such a proposal were those seeking to develop renewable energy supply. Those opposed included National Grid and those who are involved in the competitive supply business. However, even some of those opposed to the long term provision conceded that any prudent portfolio would include long and short term commitments.

The General Assembly has set forth a policy to encourage investment in renewable energy supply. According to developers, commitments to

purchase the energy are important for the financing of renewable energy supply development. The Commission agrees with the Post-Hearing Comments of Cape Wind, LLC, that the legislature anticipated long term RES commitments from obligated entities providing standard offer service, last resort service, and their successor services. Furthermore, the General Assembly set forth the policy that the goals of RES are to stabilize long-term energy prices and to create Rhode Island employment in the renewable energy sector. These are not short-term goals. Finally, the Commission finds that the policy statement of the Massachusetts Renewable Energy Trust, cited by Cape Wind, LLC, is persuasive, particularly the concern that the absence of long term contracts hinders the development of renewable energy supplies. [Report on Final Rules, at 9-10.]

The Proposed Plan is thus not in compliance with applicable regulatory requirements.

Q: Is it necessary to require long-term purchases in the current round of procurement?

A: Notwithstanding the foregoing, I do not feel that is necessary to require long-term purchases in the initial procurement for the period of 2006 to 2009. As the Legislature was well aware, the New England renewable industry is still in its infancy, such that there are relatively few new projects in the region that are sufficiently developed so as to be able to make long-term commitments at this time. This will no longer be the case, however, for subsequent procurement periods, for which there must be provisions for long-term contracts available to projects that will then be in further stages of development. CWA thus recommends that the Commission order that a working group of stakeholders (potentially including the Division, the Attorney General and the RIEDC) be established promptly, so that a workable plan aimed at meeting the long-term objectives of the Legislature will be in place for projects coming on line by 2010.

It may also be advisable for such working groups to consider utilization of some centralized procurement entity, such as the EDC or a state power authority, to oversee or exercise the procurement discretion associated with any long-term arrangement, with the

purchase role then to be assigned to the Obligated Distribution Companies. Provisions should also be included to insulate Narragansett's shareholders from adverse financial impact regarding any such long-term purchases.

III. Evaluation Criteria

CWA also believes that the selection criteria of the Propose Plan need to be revised so as to better correspond with the stated legislative objectives of the RPS. In this regard, R.I.G.L. 39-26-3 states that the purpose of the RPS is to facilitate the development of new renewable energy sources, with the goals of (i) "stabilizing the long-term energy prices," (ii) enhancing environmental quality, and (iii) "creating jobs in Rhode Island in the renewable energy sector." The draft criteria should thus be revised to reflect the balancing of these complementary objectives. For example, the criteria listed at pages 6-7 of the proposed RFP should be revised to evaluate price proposals on the basis of long-term stability, and to place a high relative value upon whether a project, whether or not located within Rhode Island, would create jobs within Rhode Island (i.e., local job creation would be a primary criterion that would not only be considered, as suggested, in cases where "all other criteria being equal." Hager at 11.) The setting of refined criteria for the subsequent and long-term procurements could also be included in the subject of the proposed working group referenced above (which could include the RIEDC), with due recognition of the fact that the purpose of the RPS is largely one of economic development in new renewable fields that create employment within Rhode Island.

IV. Commercial Terms

Q: Do you have any comments as to the commercial terms of the Proposed RFP and Purchase Agreement?

A: Yes, I do. As a general matter, I find the proposed terms to be overly onerous for the objective of incentivizing development in a newly developing industry, especially since the production of many of the intended projects will be intermittent in nature. For example, it would be preferable for a developer to have the option of selling the entire actual output of a specific facility (with the sale thus considered to be "unit-contingent"), rather than selling a fixed volume of RECs which bears no nexus to the actual performance of the specific facility. The remedies for default (Section 6.2) and security provisions (Section 6.2) also seem more appropriate to shorter term transactions between market traders than for encouraging development stage investment. For example, the measure of a seller's damages would be the delta between the Alternate Compliance Payment over the contract price multiplied by the entire sales volume over the full term of the contract. For developers without investment grade credit, Section 6.3 would then require the posting of cash-equivalent security for the entirety of such amount. Such terms would seem to be overly burdensome for development stage projects, few of which will have investment grade credit, especially when applied to the volumes associated with longer term transactions.

Q: Does that complete your testimony?

A: Yes, it does.