



State of Rhode Island and Providence Plantations

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Patrick C. Lynch, Attorney General

February 1, 2007

VIA U.S. MAIL & ELECTRONIC MAIL

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

**Re: Renewable Energy Standard Procurement Plan
– Responses to National Grid's First Set of Data
Requests – PUC Docket No. 3765**

Dear Ms. Massaro:

Enclosed please find ten (10) copies of the Rhode Island Division of Public Utilities and Carriers' responses to the first set of data requests issued by National Grid January 23, 2007, in the above-captioned proceeding.

If you have any questions concerning this filing, please feel free to contact me at (401) 274-4400, ext. 2299.

Sincerely,

William K. Lueker
Special Assistant Attorney General

Enclosures

cc: Docket 3765 Service List

Docket 3765, National Grid Renewable Energy Procurement Plan

**First Set of Data Requests to the Division of Public Utilities and Carriers
("Division") from National Grid ("Company")**

Response of the Division

February 1, 2007

NGRID 1-1. Please provide the Division's understanding of the requirement in R.I.G.L. § 39-26-6(b) and Commission Rule that authorizes rate recovery of only "prudent incremental costs" arising from the RES.

Response:

In order for such a cost to be considered prudent, two conditions must be met.

First, the renewable resource (or REC or contract) associated with the cost must be part of a procurement plan reviewed by the Division and approved by the Commission. Mr. Hager's testimony describes the process for Division review and Commission approval. The Company would provide all relevant bid information to the Division, would identify which bids the Company intends to accept, and would provide the Division an opportunity to comment on and make recommendations on the final selection. If the Division raises a concern that cannot be resolved with the Company, then the Company would file a proposal to the Commission to resolve the concern and address any remaining issues. Either way, the Company would not execute a contract until it has received Commission approval.

Second, the Company must make all good-faith efforts to minimize the costs associated with procuring resources in the Commission-approved procurement plan. For example, if it turns out that the Company's Standard Offer sales are significantly lower than expected, and that it has purchased "excess" RECs for one or more years, then it should take steps to minimize or eliminate any costs associated with such RECs. Such steps might include, for example:

- The Company should periodically reduce the quantity of short- and medium-term RECs that it purchases, in response to declining sales to Standard Offer customers.
- To the extent possible, the Company should seek opportunities to bank the RECs for use in future years.
- If the previous two actions are not sufficient, the Company should seek opportunities to sell the excess RECs to other parties interested in purchasing renewable certificates.

Prepared by: Tim Woolf

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NGRID 1-2. Please provide any forecasts of the costs and/or availability of future RECs that were relied upon, if any, in developing the Division's position in this proceeding.

Response:

The Division has not relied upon any forecasts in developing its position in this proceeding.

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NGRID 1-3. Please provide any forecasts of the cost and/or availability of RECs in New England for any period of time in the Division's possession, regardless of whether the Division relied on such forecast in preparing its position in this docket.

Response:

The Division does not have in its possession any forecasts of the cost and/or availability of RECs in New England.

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February 1, 2007

NGRID 1-4. Assume the Commission were to require the Company to consider long-term contracts for the procurement pending in this docket, what criteria (including pricing) would the Division propose be used to determine the amount and pricing of RECs procured by National Grid via long-term contracts?

Response:

The Company should use sound portfolio management practices to determine the amount of RECs to procure from long-term contracts. This would include, for example, considering the following factors:

- The appropriate balance of short, medium and long-term options.
- The price of the long-term contract, relative to medium and short term offers.
- The price of the long-term contract, relative to the Company's assessment of renewable project development and prospects in New England.
- The price of the long-term contract, relative to the alternative compliance payment.
- The quality of the proposal, based on, for example, the evaluation criteria on page 10 of Mr. Hager's testimony.

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NGRID 1-5. Assuming there is no reliable forecast for the cost of RECs for the period 2010 through 2020, would it be prudent for the utility to enter into a long-term contract of 10 years or more for the purchase of RECs from a proposed project?

Response:

Yes. It might be prudent, depending upon how well a contract meets the evaluation criteria (see response to NGRID1-4).

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NGRID 1-6. In the absence of a reliable forecast of REC costs, what pricing information should be used to determine whether the utility should enter into a given long-term contract?

Response:

At a minimum, the Company should consider:

- The price of the long-term contract, relative to medium and short term offers.
- The price of the long-term contract, relative to the Company's assessment of renewable project development and prospects in New England.
- The price of the long-term contract, relative to the alternative compliance payment.

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NGRID 1-7. Assume the Commission approved a procurement plan to enter into long-term contracts for RECs for a term of 10 years or more. Assume the Company complies with that plan and enters into a long-term contract for 15 years, and it turns out that the price for RECs under the contract is substantially higher than the market price from years 3 through 15 of the contract. Would there be any basis for denial of cost recovery in those later years on the grounds that the cost-incurrence was imprudent? If so, please explain why. If not, please explain why not.

Response:

If the RECs were purchased according to a pre-approved procurement plan, and the Company made all good-faith efforts to minimize the costs associated with the procurement plan, then there would not be any basis for denial of cost recovery in those later years. See response to NGRID1-1.

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NGRID 1-8. If the answer to the above question was no, please explain how the prudence standard would apply (if at all) to circumstances where the Company has fully complied with a pre-approved Commission procurement plan.

Response:

If the Company fully complies with the pre-approved Commission procurement plan, then the only remaining issue is whether the Company made all good-faith efforts to minimize the costs associated with procuring the resources in the plan. See response to NGRID1-1.

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NGRID 1-9. If the amount of the RECs purchased by the Company pursuant to a pre-approved plan were to eventually exceed the Company's target percentage of RECs for any given year for its Standard Offer and Last Resort Service load, would the Company be entitled to recover the cost of the certificates purchased in excess of the target percentage? From whom would the Company be entitled to recover the costs?

Response:

In such a hypothetical case, the Company should make good faith efforts to minimize or eliminate the costs associated with purchasing too many RECs. First, by maintaining a portfolio of short, medium and long-term contracts, the Company should modify the short- and medium- term purchases to prevent the purchase of too many RECs through the long-term contracts. Second, the Company should seek opportunities to bank the RECs for use in future years. Third, if the previous two actions are not sufficient, the Company should seek opportunities to sell the excess RECs to other parties interested in purchasing renewable certificates.

If, after taking all appropriate actions to minimize or eliminate the costs associated with the excess RECs, the Company still possesses excess RECs, then the Company should be entitled to recover costs associated with those RECs. Cost recovery ideally would be from Standard Offer and Last Resort customers, but the Division believes the ultimate determination on this should be made at that time. There may be reasons to do a more broad-based cost recovery plan based on the specific facts at that time.

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NGRID 1-10. Assume that a significant portion of National Grid's commercial and industrial load has taken service from competitive suppliers after 2009, and the amount of RECs committed by the Company pursuant to a pre-approved plan is significantly higher than the target percentage required for that given year.

- a. Would the Company be limited by law or regulation to recovering the costs of the certificates from the remaining Standard Offer and LRS customers?
- b. Would the Company be entitled to recover any of the costs from customers taking commodity service from Suppliers that have their own RES obligations to meet?

Response:

First, the Company would be obligated to make all good faith efforts to minimize or eliminate the excess costs associated by any such excess RECs. See response to NGRID 1-1. In addition, the Company should seek to sell any excess RECs to the competitive suppliers that are serving the "lost" customers.

The regulations allow the Company to recover prudently incurred costs associated with Commission-approved procurement plans. They are silent on which customers to recover the costs from. This question should not be answered in the abstract, but should be answered in the context of any given case. In other words, the issue should be resolved by the Commission based on the facts and issues associated with any such case.

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NGRID 1-11. Are there any circumstances where the costs of RECs could be stranded even though the Company has fully complied with a pre-approved procurement plan by the Commission? If so, please describe those circumstances.

Response:

The Division assumes that the term "stranded" refers to costs that would not be recovered from ratepayers. If the Company fully complies with a pre-approved procurement plan, then the only remaining issue is whether the costs associated with the resources in the procurement plan were prudently incurred and managed. In other words, has the Company taken all steps possible to minimize the costs associated with the pre-approved procurement plan? See response to NGRID1-1.

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NGRID 1-12. Does the Division have a recommendation for how many RECs the Company should consider purchasing via long-term contracts? If so, please provide. If not, please explain why not.

Response:

No. The Division does not have a recommendation at this time because such a recommendation should depend upon the prices, terms and conditions of the available REC proposals. See response to NGRID 1-4.

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NGRID 1-13. Does the Division recommend that the Company enter into long-term contracts with proposed projects that are yet to be built? If so:

- a. Should there be provisions in the agreement that allow for cancellation by the Company if the project doesn't meet a given set of milestones?
- b. How long a lead-time from contract signing to operation should be allowed?
- c. Should the project developer be allowed to unilaterally cancel the project without penalty? If not, how can the bidding and contracting process be administered to assure that bidders are not just submitting bids to create options to build, thereby cutting off competition?
- d. If the project fails before construction, and the Company has passed over a bid for a different project, should the developer be required to pay damages for failure to perform? If not, why not?
- e. Should the Company require any form of performance security? If so, please describe.
- f. Are there any other provisions that the Division recommends should be included in a contract with a proposed project to protect customers in Rhode Island?

Response:

Yes, if the prices, terms and conditions of the proposal warrant it.

- a. Yes.
- b. The acceptable lead-time would depend upon the prices, terms and conditions of the proposal. All else being equal, shorter lead times are preferable because they generally include less uncertainty.

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- c. No. Bidders should be required to make some form of financial commitment that would enable the Company to extract some form of penalty if a project does not deliver energy as proposed.
- d. Yes.
- e. Yes.
- f. The Division does not have any such recommendations at this time.

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