Thomas R. Teehan
Senior Counsel

February 12, 2009

VIA HAND DELIVERY & ELECTRONIC MAIL

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

Re: Docket 3999 – Tariff Advice Filing to Amend RIPUC No. 2006, Qualifying Facilities Power Purchase Rate

Dear Ms. Massaro:

Pursuant to the provisions of Rule 1.26 of the Rhode Island Public Utilities Commission's Rules of Practice and Procedure, attached are ten (10) copies of National Grid's[1] response to the three intervenors' motions to re-open the proceedings in the above referenced docket.

Thank you for your attention to this transmittal. If you have any questions, please feel free to contact me at (401) 784-7667.

Very truly yours,

Thomas R. Teehan

Enclosures

cc: Docket 3999 Service List
Paul Roberti, Esq.
Steve Scialabba, Division

[1] Narragansett Electric Company d/b/a National Grid, hereinafter referred to as "National Grid" or "the Company."

280 Melrose Street, Providence, RI 02907
T: 401-784-7667 ■ F: 401-784-4321 ■ thomas.teehan@us.ngrid.com ■ www.nationalgrid.com

Certificate of Service

I hereby certify that a copy of the cover letter and / or any materials accompanying this certificate was electronically mailed, sent via U. S. Mail and/or hand-delivered to the individuals listed below.

_____
Joanne M. Scanlon

February 12, 2009
Date

National Grid – Tariff Advice to Amend QF Power Purchase Rate to implement amended provisions of R.I.G.L. Sections 39-26-2 and 39-26-2(g)-(k) - Docket No. 3999
Service List updated on 12/1/08

Name/Address	E-mail Distribution List	Phone/FAX
Thomas R. Teehan, Esq. National Grid 280 Melrose St. Providence, RI 02907	Thomas.teehan@us.ngrid.com Joanne.scanlon@us.ngrid.com	401-784-7667 401-784-4321
William Lueker, Esq. Dept. of Attorney General 150 South Main St. Providence, RI 02903	Wlueker@riag.ri.gov Dstearns@ripuc.state.ri.us Al.contente@ripuc.state.ri.us Sscialabba@ripuc.state.ri.us Mtobin@riag.ri.gov	401-274-4400 ext. 2299 401-222-3016
File an original & nine (9) copies w/: Luly E. Massaro, Commission Clerk Public Utilities Commission 89 Jefferson Blvd. Warwick RI 02889	Lmassaro@puc.state.ri.us Cwilson@puc.state.ri.us Anault@puc.state.ri.us Nucci@puc.state.ri.us	401-780-2107 401-941-1691
Jessica Buhler, RI Housing	jbuhler@rhodeislandhousing.org	401-457-1285
Paul Sanroma, RI Wind Alliance	paul@sanroma.org	401-253-4475
Allan Klepper, Committee for Renewable in Barrington	Lbklep629@fctvplus.net	401-245-2617
Merritt Meyer, RI Wind Alliance	Mkm67@cox.net	401-253-8040
Christian Belden, Church Community Housing	cbelden@cchcnewport.org	401-846-5114 ext. 14
Karina Lutz, People's Power & Light	karina@ripower.org	
Gary Gump, PEDC Sustainable Energy Subcommittee	Ggump1@verizon.net	401-741-1011

Gary Ciminero, CFA Rhode Island House Policy Office	gciminero@rilin.state.ri.us	401-528-1760
Brother Joseph Byron Paul Jestings Portsmouth Abbey	brojoe@portsmouthabbey.org pjestings@portsmouthabbey.org	
Henry DuPont Lorax Energy Systems, LLC	hdp@lorax-energy.com	401-466-2883
Bob Chew SolarWrights, Inc.	rwchew@solarwrights.com	401-396-9901
Denise Parrillo Clean Water Action	Denisep724@verizon.net	
Matt Auten, Sr. Policy Analyst	mauten@ltgov.state.ri.us	401- 421-6535
Joel Gates	jagates@verizon.net	401-934-0029
Allen Durand IBEW Local 99	adurand@ibew99.org	401-946-9900
Richard Talipsky, Chairman, Portsmouth EDC	rtalipsky@seacorp.com	401-847-2260 x 3236
Keith Peltzman, Allco Renewable Energy	Keith.peltzman@allcous.com	401-785-0333

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: TARIFF ADVICE FILING TO AMEND R.I.P.U.C. NO. 2006 QUALIFYING FACILITIES POWER PURCHASE RATE
DOCKET NO. 3999

NATIONAL GRID'S OPPOSITION TO MOTIONS TO RE-OPEN

Pursuant to the provisions of Rule 1.26 of the Rhode Island Public Utilities Commission's Rules of Practice and Procedure, National Grid [1] hereby objects to the three intervenors' motions to re-open the proceedings in the above referenced docket. [2] In support of its objection, the Company states that sufficient procedural grounds such as material changes of law or fact have not been set forth and do not exist in order to warrant re-opening of a Commission docket. Moreover, the issues raised in the motions to re-open were fully discussed at the Commission's December 17, 2008 hearing/technical session and were ruled on by the Commission at its December 23, 2008 Open Meeting.

BACKGROUND

In July 2008, the Legislature amended RIGL §§39-26-2 and 39-26-6 (g)-(k). That statute allows eligible renewable generation facilities, Qualifying Facilities ("QF"), to deliver power to the Company through net metering. Where electricity generated by a

[1] Narragansett Electric Company d/b/a National Grid, hereinafter referred to as "National Grid" or "the Company."
[2] Rule 1.26 motions to re-open have been brought by the Town of Bristol, the Town of Portsmouth, and Church Community Housing Corporation.

qualifying facility exceeds a customer's kilowatt-hour usage during a billing period, the excess generation credits are allowed to be credited to the customer's account for the next billing period. The July 2008 amendments included a provision that Rhode Island cities and towns be permitted to apply excess credits to "another account." RIGL §39-26-6 (g)(3).

On October 29, 2008, the Company filed a tariff advice application pursuant to Commission Rule 1.9 (c) in order to revise the Company's QF rate tariffs to conform them to the July 2008 legislative amendments. Balancing the interests of the cities and towns with the Company's concerns about administrative feasibility and costs, the Company proposed that cities and towns be permitted to apply excess credits to up to five other accounts during the next billing period. The proposed tariffs also included a provision that the retail rate to be applied to energy produced at a given qualifying facility will be determined based on the generating capacity of the qualifying facility. In other words, calculating the credit based on the rate applicable to net metering facilities that are not "behind the meter" based on the size of the utility equipment required to service the facility.

On December 17, 2008, the Commission held a Technical Session/Hearing that was well attended by representatives of several cities and towns, developers, and non-profit affordable housing developments. [3] At that time, these two tariff provisions, as well as others, were fully discussed. Indeed, at the technical session, the company proposed an alternative under which the amount of the excess credit could be provided in

[3] Written comments were also submitted in this docket by representatives of the Town of Portsmouth, Church Community Housing Corp., Allco Renewable Energy Group Ltd, and People's Power and Light.

the form of a check allowing the city, town or low income housing project to apportion the excess credit as it saw fit.

On December 23, 2008, the Commission considered and voted to approve the tariffs which are currently in place. The Commission specifically approved the following terms of tariff amendments proposed by National Grid: (1) allowance of municipalities to apply credits to a limit of five accounts; (2) allowing only those municipal-owned systems that are 100% owned by the municipality to produce up to 3.5 megawatts; and (3) calculating the credit for net metering facilities that are not "behind the meter" based on the rate applicable to the generation facility as would be indicated by the size of the utility equipment required to service the facility. The Commission did not approve the Company's proposal that credits be in the form of "checks" to a municipality or low-income housing project. Instead, the credits must be billing credits. In addition, the Commission rejected the Company's proposal to limit to five the number of accounts to which a low-income housing project would be allowed to apply credits.

Two parties, the Town of Portsmouth and the Town of Bristol, have filed motions to reopen the proceedings in this docket under Commission Rule 1.26. The Town of Portsmouth and the Town of Bristol disagree with the Commission's decision to permit a city or town to apply credits to up to five other accounts, and instead they assert that cities and towns should be allowed to apply excess credits to up to ten or more other accounts. [4] The towns' submissions disregard the legislation's language, which allows for applying excess credits to "another account" not several other accounts as they request. The Company's proposal expanding that to five other accounts was submitted as

[4] The Town of Portsmouth acknowledges in its motion that it filed a December 11, 2008 submission with the Commission on this very topic.

an attempt to balance the interests of the cities and town's with the Company's concerns for administrative expense and feasibility.

A third party, the Church Community Housing Corporation has filed a request to re-open the hearings in this docket essentially for the Commission to reconsider its decision that the retail rate to be applied to energy produced at a given qualifying facility will be determined based on the generating capacity of the qualifying facility. [5] This is a provision that was in the Company's initial filing and was one of the topic's that were discussed in the context of the Company's slide presentation at the Commission's Technical session. (See p. 7 of National Grid's December 17, 2008 presentation)

DISCUSSION

The Motions to Intervene Fail to Meet the Standard for Reopening Under Commission Rule 1.26.

The Commission has required that "[u]nder Commission Rule 1.26, a party must set forth facts claimed to constitute grounds requiring the reopening of the proceedings and set forth a 'material change of fact' that 'occurred since the conclusion of the hearing.'" Docket 3483, Order 7558, Sept. 2003. The standard to reopen a hearing after the Commission has voted and approved tariff amendments is understandably demanding since otherwise Commission decisions would lack the finality needed to govern the day-to-day activities of public utilities. In order to re-open a proceeding under Rule 1.26, then, a party must demonstrate that unknown and material facts have dramatically changed the landscape upon which the Commission's decisions were made. That is not the case here.

[5] Church Community Housing Corp. submitted written comments with the Commission on December 12, 2008.

The two issues which the motions to re-open seek to re-visit were both taken up at the Commission's technical session. Moreover, the parties who have brought motions to re-open had ample opportunity to submit their positions on these topics. In fact several intervenors, including two of the parties that now move to re-open, did file written comments with the Commission. The Company's concerns about administrative feasibility with respect to a city or town applying credits to multiple accounts were stated and responded to in the course of this proceeding. Additionally, the Company's reasonable proposal that the appropriate rate to be applied to electricity produced at a particular facility should be the rate for that facility as determined by its generating capacity was not only included in the Company's initial filing, but it was afforded its own slide in the Company's presentation at the technical session. There has been no submission to support the conclusion that a recent change of material facts warrants re-opening the record in this case.

CONCLUSION

In light of the foregoing the Company respectfully requests that the Commission deny the pending motions to re-open the record in this case.

National Grid
By its attorney,

Thomas R. Teehan

Submitted February 12, 2009