

# Schacht & McElroy

Robert M. Schacht (retired)  
Michael R. McElroy

Attorneys at Law

(401) 351-4100  
fax (401) 421-5696

Members of Rhode Island  
and Massachusetts Bars

21 Dryden Lane  
Post Office Box 6721  
Providence, Rhode Island 02940-6721

email: RMSchacht@aol.com  
McElroyMik@aol.com

May 17, 2010

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

Re: Long Term Contracts for Renewable Energy Projects  
Pursuant to R.I.G.L. § 39-26.1 et seq. – Docket No. 4150

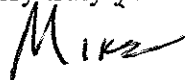
Dear Luly:

This office represents Constellation Energy Commodities Group, Inc. ("CCG") and Constellation NewEnergy, Inc. ("CNE") (collectively, "Constellation") in the above docketed proceeding.

Enclosed are an original and nine copies of Constellation's reply comments in the above docket.

If you have any questions, please feel free to call.

Very truly yours,



Michael R. McElroy

MRMc/tmg  
cc: Service List

Constellation/4149/Massaro3

RECEIVED  
2010 MAY 18 PM 4:55  
PUBLIC UTILITIES COMMISSION

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION**

**IN RE: LONG TERM CONTRACTS FOR            :**  
**RENEWABLE ENERGY PROJECTS            :**                           **Docket No. 4150**  
**PURSUANT TO R.I.G.L. § 39-26.1 et seq.   :**

**REPLY COMMENTS OF  
CONSTELLATION ENERGY COMMODITIES GROUP, INC.  
AND CONSTELLATION NEWENERGY, INC.**

**I.     INTRODUCTION**

Pursuant to the Rhode Island Public Utilities Commission's ("Commission") procedural schedule in the above captioned proceeding, Constellation Energy Commodities Group, Inc. ("CCG") and Constellation NewEnergy, Inc. ("CNE"), both collectively referred to herein as "Constellation," respectfully submit these reply comments in regards to the Narragansett Electric Company d/b/a National Grid's ("National Grid" or "Company") March 1, 2010 filing of: (1) a proposed timetable and method for solicitation and execution of long-term contracts filed pursuant to R.I.G.L. Section 39-26.1-3 (the "Long-Term Contracting Standard") and the Rules and Regulations Governing Long-Term Contracting Standards for Renewable Energy (collectively, the "Regulations") promulgated by the Commission; and (2) a Request for Proposals for Long-Term Contracts for Renewable Energy Projects ("RFP"). Constellation submitted initial comments in this matter on April 15, 2010 ("Initial Comments").<sup>1</sup> In these reply comments, Constellation addresses certain positions taken and statements made in the

---

<sup>1</sup> See *Comments of Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc.*, Commission Docket No. 4150 (submitted Apr. 15, 2010) ("Constellation Initial Comments").

*Memorandum from Richard S. Hahn* (“Comment Memorandum”) filed by the Rhode Island Division of Public Utilities and Carriers (“Division”) on May 3, 2010.<sup>2</sup>

## II. REPLY COMMENTS

In response to Division’s Comment Memorandum, Constellation in these reply comments stresses that the Commission has broad authority under its Regulations<sup>3</sup> and the General Laws of Rhode Island to allow for National Grid to solicit and receive bids only for Renewable Energy Certificates (“RECs”) from behind-the-meter, new solar photovoltaic (“Solar PV”) projects, rather than *requiring* that bids include offers for energy and capacity as well. For reasons expressed largely in Constellation’s Initial Comments in this matter – including, but not limited to, the desire to encourage broad participation by developers that use a widely-adopted model for Solar PV installations – allowing for ‘REC-only’ bids from Solar PV projects may best meet Rhode Island’s stated purpose to:

encourage and facilitate the creation of commercially reasonable long-term contracts between electric distribution companies and developers or sponsors of newly developed renewable energy resources with the goals of stabilizing long-term energy prices, enhancing environmental quality, creating jobs in Rhode Island in the renewable energy sector, and facilitating the financing of renewable energy generation . . . .<sup>4</sup>

Recall that Constellation in its Initial Comments suggests that National Grid allow the option for customers to install Solar PV systems on a customer’s side of the utility meter, and allow the developers of such behind-the-meter Solar PV installations to bid into the RFP their RECs, and *not* energy and capacity.<sup>5</sup> In response, Division in its Comment Memorandum

---

<sup>2</sup> See *Memorandum of Richard S. Hahn*, Commission Docket No. 4150 (submitted May 3, 2010) (“Division Comment Memo”).

<sup>3</sup> See “Rules and Regulations Governing Long-Term Contracting Standards for Renewable Energy,” State of Rhode Island and Providence Plantations Public Utilities Commission (effective Jan. 28, 2010) (“Regulations”).

<sup>4</sup> R.I. Gen. Laws § 39-26.1-1 (Purpose).

<sup>5</sup> Constellation Initial Comments at pp.1-3.

disagrees and states that the “Commission’s regulations specifically [state] the contracts [purchased by National Grid] must be for the purchase of capacity, energy, *and* RECs.”<sup>6</sup>

Division in its Comment Memorandum, however, fails to acknowledge or address the degree of latitude provided to the Commission by the language of the Law’s goals, as described above, as well as that of the Regulations, especially with respect to whether a project is “Commercially Reasonable.” The Regulations explicitly provide that it is the Commission that must make determinations regarding what may be considered to be “Commercially Reasonable.”<sup>7</sup> Constellation avers that the Commission should take into account that allowing a behind-the-meter Solar PV project to submit REC-only bids to National Grid provides benefits by: (1) permitting the developer to provide rate stability to the host-customer through a power purchase agreement that takes into account the benefits provided by the host-customer to the developer; and (2) committing other ratepayers only to limited risks and costs under a REC-only contract, rather than those that may arise under a long-term contract which *additionally* includes energy and capacity. This combination of risks, costs and benefits may prove most “Commercially Reasonable” and may best encourage new renewable resource development.

Division additionally claims that “allowing REC-only sales would complicate [National Grid’s] evaluation of bids.”<sup>8</sup> However, National Grid’s procurement process already provides for an array of flexibility in bidding for National Grid’s and the Commission’s consideration, including with respect to pricing for the various pieces that make up a bundled product.<sup>9</sup> If

---

<sup>6</sup> Division Comment Memo at p.2 (*emph. added*).

<sup>7</sup> *See, e.g.*, Regulations at Section 3.1 (stating that a number of requirements are defined “as determined by the Commission”).

<sup>8</sup> Division Comment Memo at p.2.

<sup>9</sup> *See, e.g.*, National Grid Request for Proposals (“RFP”) submitted on March 1, 2010 in Docket No. 4150, at p.10, Section 2.2.4.2.

National Grid and the Commission have expertise to evaluate such broad pricing and product terms, they also must have the ability to digest and consider a more limited product offer such as that of a REC-only bid. Moreover, this ability to weigh a diverse array of options may prove particularly important when the Commission is provided wide discretion and is faced with the important burden of determining what may be “Commercially Reasonable,” as described above.

### III. CONCLUSION

In summary, if REC-only bids from Solar PV developers have an opportunity to present the most “Commercially Reasonable” solution that meets Rhode Island’s goals of encouraging long-term contracts and providing direct economic benefits for the State, then National Grid’s process must be structured to allow for their consideration, and the Commission must have the option to review their benefits. Moreover, if behind-the-meter installations supported by REC-only contracts with National Grid can help provide host-customers directly with a method for “stabilizing” their energy prices, without burdening all ratepayers with the wider array of risks presented by contracts that *also* include energy and capacity, then the REC-only structure may provide additional significant benefits that must be considered.

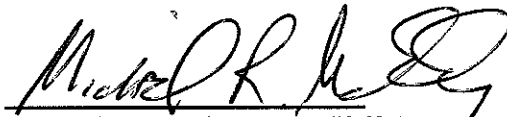
Constellation appreciates the opportunity to respond to Division’s comments, and looks forward to additional discussion of these issues, as well as continued participation in Rhode Island’s and National Grid’s other efforts to encourage development of new Solar PV resources in the region.

Respectfully Submitted,



---

Divesh Gupta, Esq.  
Senior Counsel  
Constellation Energy  
111 Market Place, Suite 500  
Baltimore, Maryland 21202  
(410) 470-3158  
[divesh.gupta@constellation.com](mailto:divesh.gupta@constellation.com)



---

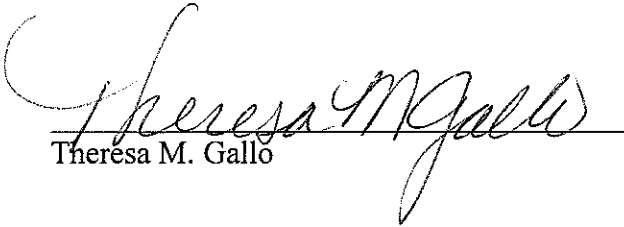
Michael R. McElroy, Esq. #2627  
Schacht & McElroy  
21 Dryden Lane  
P.O. Box 6721  
Providence, RI 02940-6721  
Tel: (401) 351-4100  
Fax: (401) 421-5696  
E-mail: [Michael@McElroyLawOffice.com](mailto:Michael@McElroyLawOffice.com)

*On Behalf of  
Constellation Energy Commodities Group, Inc. and  
Constellation NewEnergy, Inc.*

**Dated: May 17, 2010**

CERTIFICATE OF SERVICE

I hereby certify that on the 17<sup>th</sup> day of May, 2010, I sent a true copy of the foregoing to the attached service list.

  
Theresa M. Gallo

Docket No. 4150 National Grid – Long-Term Contracting for Renewable Energy  
 Projects Pursuant to R.I.G.L. Section 39-26.1 et seq.  
 Service List updated 3/19/10

Name/Address	E-mail Distribution	Phone/FAX
Thomas R. Teehan, Esq. National Grid. 280 Melrose St. Providence, RI 02907	<a href="mailto:Thomas.teehan@us.ngrid.com">Thomas.teehan@us.ngrid.com</a>	401-784-7667 401-784-4321
	<a href="mailto:Joanne.scanlon@us.ngrid.com">Joanne.scanlon@us.ngrid.com</a>	
Leo Wold, Esq. Dept. of Attorney General 150 South Main St. Providence, RI 02903	<a href="mailto:Lwold@riag.ri.gov">Lwold@riag.ri.gov</a>	401-222-2424
	<a href="mailto:Dstearns@ripuc.state.ri.us">Dstearns@ripuc.state.ri.us</a>	401-222-3016
	<a href="mailto:Sscialabba@ripuc.state.ri.us">Sscialabba@ripuc.state.ri.us</a>	
	<a href="mailto:Mtobin@riag.ri.gov">Mtobin@riag.ri.gov</a>	
	<a href="mailto:dmacrae@riag.ri.gov">dmacrae@riag.ri.gov</a>	
Michael McElroy, Esq. Schacht & McElroy PO Box 6721 Providence RI 02940-6721	<a href="mailto:McElroyMik@aol.com">McElroyMik@aol.com</a>	401-351-4100
	<a href="mailto:Timothy.daniels@constellation.com">Timothy.daniels@constellation.com</a>	401-421-5696
	<a href="mailto:Daniel.W.Allegretti@constellation.com">Daniel.W.Allegretti@constellation.com</a>	
	<a href="mailto:Joseph.Donovan@constellation.com">Joseph.Donovan@constellation.com</a>	
<b>File an original &amp; nine (9) copies</b> <b>w/:</b> Luly E. Massaro, Commission Clerk Public Utilities Commission 89 Jefferson Blvd. Warwick, RI 02888	<a href="mailto:Lmassaro@puc.state.ri.us">Lmassaro@puc.state.ri.us</a>	401-780-2017
	<a href="mailto:Cwilson@puc.state.ri.us">Cwilson@puc.state.ri.us</a>	401-941-1691
	<a href="mailto:Nucci@puc.state.ri.us">Nucci@puc.state.ri.us</a>	
	<a href="mailto:Anault@puc.state.ri.us">Anault@puc.state.ri.us</a>	