nationalgrid

Jennifer Brooks Hutchinson
Senior Counsel

July 27, 2011

VIA HAND DELIVERY & ELECTRONIC MAIL

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

RE: Review of Power Purchase Agreement With Orbit Energy Rhode Island, LLC Pursuant to RI General Laws § 39-26.1 *et seq.*
Docket No. 4265

Dear Ms. Massaro:

Enclosed please find ten (10) copies of National Grid's[1] responses to the Commission's Second Set of Data Requests in the above-captioned proceeding.

Please be advised that the Company is seeking protective treatment of confidential attachment to this response, identified as Attachment COMM 2-2, as permitted by Commission Rule 1.2(g) and by R.I.G.L. § 38-2-2(4)(i)(B). The Company has submitted a Motion for Protective Treatment along with the confidential Attachment COMM 2-2 pending a determination on the Company's Motion.

Thank you for your attention to this filing. If you have any questions, please feel free to contact me at (401) 784-7288.

Very truly yours,

Jennifer Brooks Hutchinson

Enclosures

cc: Leo Wold, Esq.
Steve Scialabba, Division

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

Certificate of Service

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

Joanne M. Scanlon

July 27, 2011
Date

Docket No. 4265 National Grid – PPA w/ Orbit Energy RI
Service List updated 7/26/11

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RHODE ISLAND PUBLIC UTILITIES COMMISSION

Review of Orbit Energy Rhode Island, LLC
Power Purchase Agreement **Docket No. 4265**
Pursuant to R.I.G.L. § 39-26.1 *et seq.*

NATIONAL GRID'S REQUEST
FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION

National Grid[1] hereby requests that the Rhode Island Public Utilities Commission ("Commission") provide confidential treatment and grant protection from public disclosure of certain confidential, competitively sensitive, and proprietary information submitted in this proceeding, as permitted by Commission Rule 1.2(g) and R.I.G.L. § 38-2-2(4)(i)(B). National Grid also hereby requests that, pending entry of that finding, the Commission preliminarily grant National Grid's request for confidential treatment pursuant to Rule 1.2 (g)(2).

I. BACKGROUND

On July 27, 2011, National Grid is filing with the Commission and the Division its response to the Commission's Data Request 2-2. In support of its response to Commission Data Request 2-2, National Grid is attaching redacted and un-redacted versions of a confidential chart, identified as Attachment COMM 2-1, which illustrates the contract pricing and remuneration over the life of the contract, net of capacity

[1] The Narragansett Electric Company d/b/a National Grid ("National Grid" or the "Company").

payments. The capacity prices used in the calculation are based on the confidential forecast information prepared by Energy Security Analysis, Inc. ("ESAI"), and is the same forecast information contained in the attachments to the Company's response to Division Data Request 1-1, for which National Grid filed a Motion for Protective Treatment. ESAI prepared the forecast acting as consultant to National Grid and at National Grid's request. Under National Grid's arrangement with ESAI the energy, capacity and REC forecasts are considered proprietary. Therefore, National Grid requests that the Commission give the information contained in the un-redacted versions of Attachment COMM 2-2.

II. LEGAL STANDARD

The Commission's Rule 1.2(g) provides that access to public records shall be granted in accordance with the Access to Public Records Act ("APRA"), R.I.G.L. §38-2-1, *et seq.* Under APRA, all documents and materials submitted in connection with the transaction of official business by an agency is deemed to be a "public record," unless the information contained in such documents and materials falls within one of the exceptions specifically identified in R.I.G.L. §38-2-2(4). Therefore, to the extent that information provided to the Commission falls within one of the designated exceptions to the public records law, the Commission has the authority under the terms of APRA to deem such information to be confidential and to protect that information from public disclosure.

In that regard, R.I.G.L. §38-2-2(4)(i)(B) provides that the following types of records shall not be deemed public:

> Trade secrets and commercial or financial information obtained from a person, firm, or corporation which is of a privileged or confidential nature.

The Rhode Island Supreme Court has held that this confidential information exemption applies where disclosure of information would be likely either (1) to impair the Government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained. Providence Journal Company v. Convention Center Authority, 774 A.2d 40 (R.I.2001).

The first prong of the test is satisfied when information is voluntarily provided to the governmental agency and that information is of a kind that would customarily not be released to the public by the person from whom it was obtained. Providence Journal, 774 A.2d at 47.

In addition, the Court has held that the agencies making determinations as to the disclosure of information under APRA may apply the balancing test established in Providence Journal v. Kane, 577 A.2d 661 (R.I.1990). Under that balancing test, the Commission may protect information from public disclosure if the benefit of such protection outweighs the public interest inherent in disclosure of information pending before regulatory agencies.

II. BASIS FOR CONFIDENTIALITY

The information regarding the ESAI forecast contained in the un-redacted versions of Attachment COMM 2-2 was developed by ESAI through its proprietary methods of analysis and was provided to National Grid on a confidential basis. National Grid is providing the un-redacted versions of Attachment COMM 2-2 to the Commission and the Division on a voluntary basis to assist the Commission with its decision-making in this proceeding. Disclosure of this information could adversely affect ESAI's competitive position and would tend to make it less likely that such information would be provided voluntarily in the future. Moreover, such disclosure would impede National Grid's future ability to obtain this type of proprietary information from third-party consultants or would increase the cost at which that information could be obtained.

III. CONCLUSION

Accordingly, the Company requests that the Commission grant protective treatment to the un-redacted versions of Attachment COMM 2-2.

WHEREFORE, the Company respectfully requests that the Commission grant its Motion for Protective Treatment as stated herein.

Respectfully submitted,

NATIONAL GRID

By its attorney,

____

Jennifer Brooks Hutchinson (RI Bar #6176)
National Grid
280 Melrose Street
Providence, RI 02907
(401) 784-7288

Dated: July 27, 2011

Commission 2-1

Request:

On page 13 of his direct, Mr. Milhous explains that the bundled energy price could be reduced by the value of capacity. Did the company take this into consideration when evaluating the contract? If not, why not? If yes, please provide a chart by year of the expected capacity value and its effect on the contract price?

Response:

Yes. See Exhibit 3 (Comparison of Orbit Energy PPA Pricing to Forecast Market Prices) to Mr. Milhous's testimony and Attachment 1 to Division Data Request 1-1 for the expected yearly capacity value. As explained in the testimony and noted in the Company's response to Division Data Request 1-1, Exhibit 3 is based on the ESAI and LAI forecasts of prices for capacity, energy and RECs. The entries in this table are the difference between the contract cost and the total value of the products, including capacity, based on these price forecasts. In the calculation of the capacity value, shown on Attachment 1 DIV 1-1, the forecast ISO-NE FCM seasonal clearing prices are converted to annual values in $/kW-month, and a rating of 3.0 MW was used to calculate this portion of the market value. For example, if the FCM clearing price is $4/kW-month, and the annual energy generated by Orbit Energy is 23,160 MWh per year, the capacity value is equivalent to $6.22 MWh. The effect of the capacity payments on contract costs is depicted in Attachment 1 to the Company's response to Commission Data Request 2-2. To the extent that capacity revenues are received, or should have been received from ISO-NE, those revenues are deducted from the bundled energy price in the monthly settlement process.

It is important to note that under the April 13, 2011 Order of the Federal Energy Regulatory Commission ("FERC"), concerning the redesign of the FCM, new generating units, including renewable energy resources, would be subject to new minimum offer price mitigation rules. This will generally require any new resource to offer above a benchmark minimum offer price applicable to its resource type. The resource type benchmark minimum offer prices will be established by the ISO-NE market monitoring unit to reflect expected capacity market revenue requirements absent "out-of-market" revenues (e.g., revenues above expected wholesale market revenues which might be provided under a PPA). This could mean that some mitigated resources, and in particular, renewable resources operating under a PPA, would not be allowed to offer as "price-takers", and, subject to the level of the applicable benchmark minimum price, might not clear in the FCM**.** This could impact the value of capacity revenues that would have otherwise been received from ISO-NE for a particular renewable energy project.

Commission 2-1 (continued)

While this issue still remains unresolved, there is the possibility of including a blanket exemption from the offer price floor mitigation rules for certain resources that further legitimate policy goals, such as Renewable Energy Portfolio Standards, in the ISO-NE tariff rules to be developed in the upcoming stakeholder process. ISO-NE has also proposed a time limit (e.g. five years) on the minimum offer floor mitigation.

Prepared by or under the supervision of: Madison N. Milhous, Jr.

Commission 2-2

Request:

If the value of capacity does serve to reduce the net cost of the contract to ratepayers, what value will Grid's remuneration be based upon? Will it be based on the stated contract price or will it be based on the contract price less the value of capacity?

Response:

The company's financial remuneration is based on the actual power production of the Orbit Energy facility, and is calculated on the actual payments under the PPA, net of the capacity revenues. Note, for simplicity, the remuneration calculations in the response to Commission Data Request 1-1 and shown on Attachment COMM 1-1 were based on the full contract revenue at a constant estimate of annual production. In Attachment COMM 2-2, the remuneration has been recalculated for comparison, assuming that the full capacity revenue is realized. In this case the confidential ESAI forecast for capacity prices was used. Therefore, the Company is providing Attachment COMM 2-2 to the Division and the Commission subject to a motion for protective treatment. A PDF version of Attachment COMM 2-2 with the columns containing the ESAI forecast redacted is being provided as part of the public filing.

Prepared by or under the supervision of: Madison N. Milhous, Jr.

REDACTED

ORBIT ENERGY PRICING OVER LIFE OF CONTRACT (NET OF CAPACITY PAYMENTS)

SCENARIO 1	
Price (per kWh)	$0.095
Price (per MWh)	$95.00
Annual Escalator	2 00%
Annual Output (MWh)	23,160
Annual Remuneration	2.75%
Term (Years)	15

Year	Output (MWh)	Bundled Rate ($/MWh)	Capacity $/kW-mo	Capacity $/MWh	Contract Cost	Remuneration	Total
2013	7,720	$95.00	[redacted]	[redacted]	$702,203	$19,311	**$721,513**
2014	23,160	$96.90	[redacted]	[redacted]	$2,150,612	$59,142	**$2,209,754**
2015	23,160	$98.84	[redacted]	[redacted]	$2,195,496	$60,376	**$2,255,872**
2016	23,160	$100.81	[redacted]	[redacted]	$2,244,979	$61,737	**$2,306,716**
2017	23,160	$102.83	[redacted]	[redacted]	$2,282,291	$62,763	**$2,345,054**
2018	23,160	$104.89	[redacted]	[redacted]	$2,311,521	$63,567	**$2,375,088**
2019	23,160	$106.99	[redacted]	[redacted]	$2,353,099	$64,710	**$2,417,809**
2020	23,160	$109.13	[redacted]	[redacted]	$2,402,655	$66,073	**$2,468,728**
2021	23,160	$111.31	[redacted]	[redacted]	$2,428,773	$66,791	**$2,495,564**
2022	23,160	$113.53	[redacted]	[redacted]	$2,416,614	$66,457	**$2,483,071**
2023	23,160	$115.80	[redacted]	[redacted]	$2,403,768	$66,104	**$2,469,871**
2024	23,160	$118.12	[redacted]	[redacted]	$2,421,135	$66,581	**$2,487,716**
2025	23,160	$120.48	[redacted]	[redacted]	$2,461,836	$67,700	**$2,529,537**
2026	23,160	$122.89	[redacted]	[redacted]	$2,509,342	$69,007	**$2,578,349**
2027	23,160	$125.35	[redacted]	[redacted]	$2,557,885	$70,342	**$2,628,227**
2028	15,440	$127.86	[redacted]	[redacted]	$1,738,219	$47,801	**$1,786,020**
		TOTAL			**$35,580,429**	**$978,462**	**$36,558,891**

Note: Based on ESAI Capacity Price Forecast

SCENARIO 2	
Price (per kWh)	$0.100
Price (per MWh)	$100.00
Annual Escalator	2.00%
Annual Output (MWh)	23,160
Annual Remuneration	2.75%
Term (Years)	15

Year	Output (MWh)	Bundled Rate ($/MWh)	Capacity $/kW-mo	Capacity $/MWh	Contract Cost	Remuneration	Total
2013	7,720	$100.00	[redacted]	[redacted]	$740,803	$20,372	**$761,175**
2014	23,160	$102.00	[redacted]	[redacted]	$2,268,728	$62,390	**$2,331,118**
2015	23,160	$104.04	[redacted]	[redacted]	$2,315,975	$63,689	**$2,379,664**
2016	23,160	$106.12	[redacted]	[redacted]	$2,367,867	$65,116	**$2,432,984**
2017	23,160	$108.24	[redacted]	[redacted]	$2,407,637	$66,210	**$2,473,847**
2018	23,160	$110.41	[redacted]	[redacted]	$2,439,374	$67,083	**$2,506,457**
2019	23,160	$112.62	[redacted]	[redacted]	$2,483,509	$68,296	**$2,551,805**
2020	23,160	$114.87	[redacted]	[redacted]	$2,535,673	$69,731	**$2,605,404**
2021	23,160	$117.17	[redacted]	[redacted]	$2,564,451	$70,522	**$2,634,973**
2022	23,160	$119.51	[redacted]	[redacted]	$2,555,006	$70,263	**$2,625,268**
2023	23,160	$121.90	[redacted]	[redacted]	$2,544,927	$69,986	**$2,614,913**
2024	23,160	$124.34	[redacted]	[redacted]	$2,565,118	$70,541	**$2,635,659**
2025	23,160	$126.82	[redacted]	[redacted]	$2,608,699	$71,739	**$2,680,438**
2026	23,160	$129.36	[redacted]	[redacted]	$2,659,142	$73,126	**$2,732,268**
2027	23,160	$131.95	[redacted]	[redacted]	$2,710,681	$74,544	**$2,785,224**
2028	15,440	$134.59	[redacted]	[redacted]	$1,842,120	$50,658	**$1,892,778**
		TOTAL			**$37,609,708**	**$1,034,267**	**$38,643,975**

Commission 2-3

Request:

With regard to any output received from Orbit, does Grid intend to re-sell the energy & RECs in the market or intend to use the energy & RECs to satisfy its SOS & RES obligations?

Response:

National Grid plans to sell the energy and RECs in the market, as contemplated by Section 39-26.1-5(f). If, in the future, accounting rules change and the Company is required to mark the contract to market, it could have a negative balance sheet impact on the Company. In such case, the Company would consider different treatment. No change in treatment would occur without an appropriate filing made in advance with the Commission. Under prevailing US Generally Accepted Accounting Principles (US GAAP) and International Financial Reporting Standards (IFRS) in effect today, however, the Company would not be required to mark the contract to market and, thus, there is no such balance sheet impact.

Prepared by or under the supervision of: Madison N. Milhous, Jr.