

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: REVIEW OF POWER PURCHASE AGREEMENT :
WITH ORBIT ENERGY RHODE ISLAND, LLC – : DOCKET NO. 4265
FOURTH CONTRACT EXTENSION :

ORDER

On July 28, 2011, the Public Utilities Commission (PUC) approved a Power Purchase Agreement (PPA) between Orbit Energy Rhode Island, LLC (Orbit) and The Narragansett Electric Company d/b/a National Grid (National Grid) under the Long Term Contracting Standard for Renewable Energy.¹ Orbit Energy will generate energy using anaerobic digestion and sell it to National Grid for an initial price of 9.5¢ per kWh, subject to an interconnection cost adjustment that could raise the initial price to 10¢ per kWh. The initial deadline in the Power Purchase Agreement for Orbit to achieve commercial operation was July 28, 2013. Since the initial approval, the PUC has approved extensions of the commercial operation date three times. The most recent extension moved the deadline for commercial operation to December 31, 2015, with an option for Orbit to extend it an additional six months upon payment of additional collateral. Orbit exercised that option on or around September 10, 2015.

On June 3, 2016, after consultation with the Division of Public Utilities and Carriers (Division), National Grid filed a fourth amendment to the power purchase agreement extending the deadline for achievement of commercial operation to June 30, 2017. In consideration for the extension, Orbit posted \$45,000 in additional collateral. National Grid agreed with the Division to provide quarterly status reports on the project. In support of the fourth amendment, National Grid asserted that the power purchase agreement with Orbit is a positive project for Rhode Island

¹ Order No. 20453 (Aug. 18, 2011). The Long Term Contracting Standard for Renewable Energy is codified at R.I. Gen. Laws § 39-26.1-1 to 9.

and noted that, with the exception of the operating permits, Orbit has obtained all of the other required permits. National Grid stated that Orbit has made a good faith effort and continued to show progress toward achieving commercial operation.

In a response to a PUC-issued data request, National Grid reiterated that Orbit has continued “to make progress in all areas of mechanical, electrical and construction activities on the premises.” According to National Grid, the recent conclusion of a Verizon work stoppage should provide more certainty that telecommunications connections, a part of the interconnection process, will be completed in time to allow Orbit to achieve commercial operation by June 30, 2017.²

At an Open Meeting held on August 12, 2016, the PUC approved the fourth amendment to the power purchase agreement finding that Orbit has continued to make progress toward commercial operation since approval of the third amendment. Key commercial terms of the agreement have not changed, namely price and size. However, should Orbit not achieve commercial operation by June 30, 2017 and need additional time, Orbit will be required to make a showing to the PUC why a further extension is reasonable. The power purchase agreement was initially entered into five years ago under the long-term contracting for renewable energy standard which required all projects to have a credible commercial operation date. In hindsight, the credibility of the commercial operation date has been called into question. The PUC will require assurances that state policy is being met through the long term contracting for renewable energy standard before approving any additional extensions.

Additionally, the PUC is interested in specific plans for the feedstock of the facility and looks forward to receiving Orbit’s renewable energy standard application which will allow further

² National Grid response to PUC-1-2.

review of that issue. Finally, the PUC is interested in any additional information that Orbit may be able to provide about the quality of the compost that will be produced and marketed as a result of this project and welcomes Orbit to make a presentation to the PUC on its project.

Accordingly, it is hereby

(22571) ORDERED:

1. The Fourth Amendment to Power Purchase Agreement dated May 27, 2016 between The Narragansett Electric Company d/b/a National Grid and Orbit Energy Rhode Island, LLC is hereby approved.
2. In the event Orbit Energy Rhode Island, LLC seeks another extension of the commercial operation deadline, Orbit Energy Rhode Island, LLC shall make a showing to the Public Utilities Commission why a further extension of time is reasonable.

EFFECTIVE AT WARWICK, RHODE ISLAND ON AUGUST 12, 2016, PURSUANT TO AN OPEN MEETING DECISION. WRITTEN ORDER ISSUED OCTOBER 13, 2016.

PUBLIC UTILITIES COMMISSION



Margaret E. Curran, Chairperson



Herbert F. DeSimone, Jr., Commissioner



Marion S. Gold, Commissioner



NOTICE OF RIGHT OF APPEAL: Pursuant to R.I. Gen. Laws § 39-5-1, any person aggrieved by a decision or order of the PUC may, within seven days from the date of the order, petition the Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or order.