

legislature “vested in the public utilities commission and the division of public utilities and carriers the exclusive power and authority to supervise, regulate, and make orders governing the conduct of companies offering to the public in intrastate commerce energy, communication, and transportation services and water supplies for the purpose of increasing and maintaining the efficiency of the companies, according desirable safeguards and convenience to their employees and to the public, and protecting them and the public against improper and unreasonable rates, tolls and charges by providing full, fair, and adequate administrative procedures and remedies. . .” *Id.* at §39-1-1(c). The Commission’s enabling legislation is to be “interpreted and construed liberally in aid of its declared purpose” and the Commission is given, “in addition to powers specified in this chapter, all additional, implied, and incidental power which may be proper or necessary to effectuate their purposes.” *Id.* at §39-1-38. Our Supreme Court describes the Commission’s powers to “include implementing the policies of the state in regulating the public utilities to achieve the ‘ultimate policy goals of providing for adequate, efficient, and economical energy, communication, and transportation services and water supplies at just and reasonable rates.’” In re Kent County Water Authority Change Rate Schedules, 996 A.2d 123, 126 (R.I.2010), citing Providence Gas Co. v. Burke, 419 A.2d 263, 269 (R.I.1980).

The legislature authorized the Commission to “serve as a quasi-judicial tribunal with jurisdiction, powers, and duties to implement and enforce the standards of conduct under § 39-1-27.6 and to hold investigations and hearings involving the rates, tariffs, tolls, and charges. . .” R.I. Gen Laws §39-1-3. It is the Commission’s duty to “render[] independent decisions affecting the public interest and private rights based upon the law and upon the evidence presented before it by the division and by the parties in interest.” *Id.* at §39-1-11.

COV1’s concerns invoke the Commission’s implied and incidental powers. Program misadministration directly and obviously impacts COV1 and impedes the program goals by failing to

admit a qualified applicant. The DG Contracts law intends “to facilitate and promote installation of grid-connected generation of renewable energy; support and encourage development of distributed renewable energy generation systems; reduce environmental impacts; reduce carbon emissions that contribute to climate change by encouraging the local siting of renewable energy projects; diversify the state's energy generation sources; stimulate economic development; improve distribution system resilience and reliability; and reduce distribution system costs.” Id. at §39-26.2-2. It states that “[f]or large distributed generation projects, the electric distribution company shall select projects for standard contracts based on the lowest proposed prices received, but not to exceed the applicable standard contract ceiling price, provided, that the selected projects meet the requirements of all applicable tariffs and regulations and meet the criteria of a renewable energy class in effect until the class target is met.” Id. at §39-26.2-6(c). COV1’s bid price is lower than other selected projects and COV1 meets all other selection criteria, so National Grid had no discretion to reject COV1’s bid. Two large solar bids that were accepted were priced at \$21.950/kWh and \$20.599/kWh while the COV1 bid was at \$20.550/kWh. Moreover, National Grid had to accept the COV1 bid in addition to all other accepted bids to meet the annual and total program goals for enrollment. The Commission’s July 2, 2014 Order in this docket said that the final enrollment would give any allocation from classes not represented to other technologies based on cost effectiveness and competitiveness. On January 20th, 2015, National Grid reported to the DG Board that the goal for the final enrollment of 2014 was 13MW and they were only able to contract for 11MW. National Grid’s wrongful denial impedes the program goals and the objectives of Rhode Island’s state energy plan that include diversification of our energy supply through enhanced production of renewable energy.

R.I. Gen. Laws §39-26.2-8(d) requires that “the electric distribution company. . . utilize uniform standard forms for evaluating project proposals and shall rank projects according to uniform

criteria.” The enrollment rules require the same (Section 2.1, 2.4 and Schedule 3, 2.12). Section 2.12 provides as follows: “By submitting an application, an Applicant agrees that the sole recourse that it may have with respect to the conduct of this enrollment is by submission of a complaint or similar filing to the Commission in a relevant docket pertaining to this Open Enrollment.” COV1 seeks relief from an improperly administered enrollment process under the terms of the enrollment rules.

The suggestion that this is principally or solely a contract dispute is a red herring. No contract issues need be resolved to determine that the enrollment was improperly administered. Any prior DG Contract for WED Coventry One, LLC is dead and terminated by statute and was dead long before this enrollment. The contract was entered on August 2, 2013, so the eighteen-month production requirement expired February 2, 2015. R.I. Gen. Laws § 39-26.2-7(2)(iv). That production requirement has not been met. Nor could it have possibly been met at any time after National Grid issued its interconnection impact study on April 17, 2014, stating that it would take 18-24 months to interconnect the COV1 turbine. National Grid killed the first DG Contract for COV 1 by making contract compliance infeasible due to the time National Grid required for interconnection. National Grid admitted that COV1 could not perform under the DG contract when, on May 1, 2014, John Kennedy of National Grid sent Mark Depasquale an email in which he made it clear that “the 18-24 month estimated timeline for design and construction from time of Interconnection Service Agreement execution will not allow enough time to provide Output Demonstration Test results by February 2, 2015” (attached). Since April 17, 2014, there has been no question that COV1 could not meet the statutory production date in the contract due to National Grid’s interconnection schedule. Therefore, there is no real contract dispute at issue here – compliance with the contract was not possible as of April 17, 2014, as National Grid stated on May 1, 2014. For National Grid to preclude participation in a DG Contract enrollment conducted in December of 2014 because it refused to

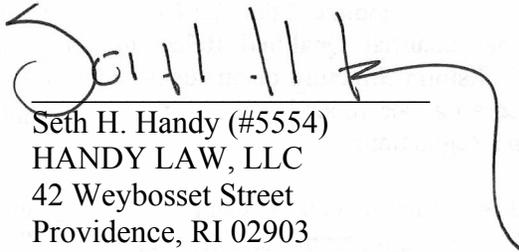
officially grant contract termination for a contract it had declared dead in April 2014 is improper administration of the enrollment process for DG Contracts.

COV1 concedes that the specific question of whether National Grid must refund the performance guaranty deposit COV1 paid under the DG Standard Contract is a contractual matter involving National Grid's contractual default and failure to honor the force majeure provision in the DG Contract, that is now to be resolved in court. However, the question of whether National Grid wrongly denied COV1 participation in the final enrollment of the DG Contract program is squarely and properly before the Commission.

Respectfully submitted,

WED COVENTRY ONE, LLC

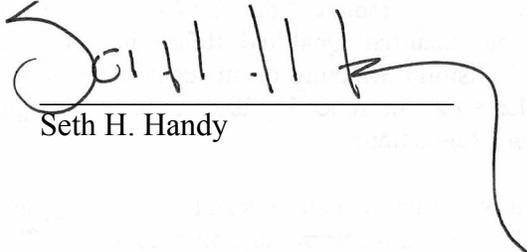
By their attorney,



Seth H. Handy (#5554)
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42 Weybosset Street
Providence, RI 02903
Tel. 401.626.4839
E-mail seth@handylawllc.com

CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2015, I sent a true copy of the document by electronic mail to the PUC and the service list and filed the original pleading and 9 photocopies with the PUC.



Seth H. Handy

From: Kennedy, John C. [mailto:John.Kennedy@nationalgrid.com]
Sent: Thursday, May 01, 2014 10:30 PM
To: Mark(Wind) Depasquale; Laura Anthony; 'David Colombo'; George, Caleb
Cc: Enayati, Babak; Isberg, John F.
Subject: RE: Wind Energy Development: Coventry I - IV

Mark et al,

I am providing agenda, my notes and next steps from today's meeting below. Please confirm and/or provide edits, additions if I may have missed anything in our discussion.

Agenda:

To provide:

- **A technical review of recent results for Coventry I & II Impact Study for Renewable DG and review of estimated construction timelines.**
- **A review of results of Feasibility Studies conducted for Coventry III & IV and timeline of requested ISRDG.**
- **Discussion of impacts on National Grid's electrical power system by all four projects.**

Mark,

Once we complete discussion on the wind turbine projects I'd like to discuss the NK Green account also.

Notes/Next Steps:

- **Coventry I & II ISRDG**
- **18-24 month estimated timeline of design and construction from time of Interconnection Service Agreement (ISA) execution will not allow enough time to provide Output Demonstration Test results by February 2, 2015.**
- **Three part payment plan will be incorporated into ISA when requested.**
- **NGrid will revise study to provide only one-Loadbreak Switch, one-pole top recloser and two primary metering assemblies (one DG Contract WTG, one for Net Metering WTG) at WED's request.**
- **WED will consult with Goldwind Americas to determine if WTG inverter is UL Listed and provide results to NGrid. If UL Listed consideration of anti-islanding protection requirement to be made.**
- **NGrid to determine what generation value would negate anti-islanding protection (Direct Transfer Trip) requirement for Coventry I if WED determines that they wish to execute ISA and result might allow reduction of design/construction timeline. More discussion needed.**
- **General Discussion of WED's proposed installation of 7 – 1.5mW WTG's in Coventry, RI**
- **WED informed NGrid that they are proposing a total of 7 WTG's and that they will provide site plan detailing WTG locations**
- **NGrid to provide high level interconnection review based on site plan provided, distribution circuits available, and below information.**
- **Coventry I - DG Contract**
- **Coventry II, IIa, IIb – Net Metered**
- **Coventry III, IV – Net Metered**
- **Coventry V – DG Contract**
- **WED proposed one point of interconnection for III and IV by crossing public way (underground). This would not be allowed as it would infringe on NGrid's franchise rights.**
- **WED proposed contracting with NGrid's recommended contractors in an effort to shorten overall timeline**

for NGrid distribution line construction required for all WTG system impacts. NGrid indicated that this proposal had been made by others and would not be allowed but would bring up again within organization.

- WED and NGrid agreed to continue high level review and to meet Friday, May 9th. Goldwind Americas to be present. Meeting notice provided.
- NK Green Account
- We agreed that we would discuss plan to bring account current on Thursday, May 8th. Meeting notice provided for Wednesday, May 7th due to conflict in schedule.

Thank you for your time today and we look forward to next week's meetings.

Best regards,

John Kennedy

nationalgrid

Lead Technical Support Consultant - RI

Technical Sales and Engineering Support

Office: 401-784-7221

Please select the appropriate link below for the latest DG information:

National Grid's DG Website(RI)

RIPUC No.2078 Standards for Connecting Distributed Generation

RIPUC No.2075 Net Metering Provision

ESB No.756 Requirements for Parallel Generation

-----Original Appointment-----

From: Kennedy, John C.

Sent: Monday, April 21, 2014 11:51 AM

To: Kennedy, John C.; 'Mark(Wind) Depasquale'; David Colombo; George, Caleb; Enayati, Babak; Isberg, John F.

Subject: Wind Energy Development: Coventry I - IV

When: Thursday, May 01, 2014 10:00 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).

Where: CR- Providence - S(14) Melrose St - Business Services

Sending again for all to reply.

Thanks,

To provide:

- **A technical review of recent results for Coventry I & II Impact Study for Renewable DG and review of estimated construction timelines.**
- **A review of results of Feasibility Studies conducted for Coventry III & IV and timeline of requested ISRDG.**
- **Discussion of impacts on National Grid's electrical power system by all four projects.**

Mark,

Once we complete discussion on the wind turbine projects I'd like to discuss the NK Green account also.

Thanks,

John

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