State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL
150 South Main Street • Providence, RI 02903
(401) 274-4400 - TDD (401) 453-0410

Peter F. Kilmartin, Attorney General

May 6, 2014

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

RE: National Grid – Revised Long-Term Contracting for Renewable Energy Projects Pursuant to R.I.G.L. Section 39-26.1 et seq.
DOCKET NO: 4491

Dear Ms. Massaro,

Enclosed for filing with the Commission on behalf of the Division of Public Utilities and Carriers ("Division"), please find an original and (9) copies of the Division's Comments in the above-entitled matter. I am forwarding an electronic copy to the service list as well.

Sincerely,

Karen O. Lyons
Special Assistant Attorney General

KL/dmd

Encl.

cc: Service list

To: Rhode Island Public Utilities Commission

From: Richard Hahn and Al Pereira, La Capra Associates, on behalf of the Division of Public Utilities and Carriers

Re: Long-Term Contracts for Renewable Energy Projects Pursuant to Rhode Island General Laws Section 39-26.1 et seq. Proposed Revised Timetable and Method of Solicitation and Execution, Docket 4491

Date: May 6, 2014

On February 28, 2014, National Grid ("NGRID" or the "Company") filed with the Rhode Island Public Utilities Commission (the "Commission") a revised Request for Proposal ("RFP") that contained changes to the timetable and method of solicitation and execution of renewal energy contracts. The Rhode Island Division of Public Utilities and Carriers ("Division") requested that La Capra Associates, Inc. review the filing and provide comments for submission to the Commission, on behalf of the Division. This memorandum provides the results of La Capra Associates' review of the proposed changes to the RFP.

Summary

Based upon our review of the material filed in this docket, we recommend that the proposed revised RFP be approved, subject to the provision, as discussed below, that the Company demonstrate that the level of protection offered to Rhode Island customers to address the risk of negative locational marginal prices is equal or superior to the level of protection offered in other jurisdictions in which the Company operates.

Overview of the Filing

On February 28, 2014, NGRID filed with the Commission a revised RFP to solicit proposals from renewable energy projects to satisfy the Rhode Island long-term renewable energy contracting statute. Two substantive changes were proposed. The first change is to implement adjustments to the pricing terms of the RFP in the event that negative locational marginal prices occur. The second change was to require that prices not be conditioned upon the availability of the federal production tax credit, the federal investment tax credit, or any other government grant or subsidy. On April 22, 2014, NGRID filed a further revision to this RFP. The purpose of the April 22nd filing is to modify the RFP to reflect the fact that the Federal Energy Regulatory Commission has approved ISO-NE proposed market rule changes that could result in negative locational marginal prices. On April 9, 2014, the Division submitted three data requests to National Grid. On April 30 the company provided responses.

Negative Pricing Issues

ISO-NE recently approved market rule changes will allow generating resources to offer power into ISO- NE energy markets at negative prices. Prior to this rule change, the minimum price offer was zero. Negative locational marginal prices were a possibility in these energy markets even under the old rules (due to transmission congestion or losses), but negative offer prices were not allowed. With a zero minimum price offer, the probability and magnitude of a negative locational marginal price was relatively low and negative prices occurred infrequently. The recently approved market rules could increase the probability that negative locational marginal prices could occur and that their magnitude could be more significant. The Company has proposed adjusting prices paid to winning bidders that would protect Rhode Island ratepayers from paying higher than anticipated prices in those hours when negative locational marginal prices occurred. This issue arose during the proceeding to review the purchased power agreement between the Company and Champlain Wind in Docket 4437. In our memo in that docket, we recommended that the Company include such protection for its ratepayers in future RFPs. What the Company has proposed in this docket is consistent with what we recommended in the Champlain Wind review. In Division data request 1-1 in this proceeding, we asked the Company to explain how this issue was dealt with in the other jurisdictions in which it operates. In response, the Company provided a Q&A excerpt from joint testimony before the Massachusetts Department of Public Utilities that stated that the Company sought to avoid having its ratepayers absorb the risk of negative locational marginal prices. However, the response does not provide sufficient detail for us to determine if the level of protection offered to Rhode Island ratepayers in this docket is equal or superior to what the Company offered to its Massachusetts ratepayers. The Company should provide the details of its treatment of the negative locational marginal price issue in its Massachusetts contracts. If the level of protection offered to Rhode Island ratepayers is indeed equal or superior to what was implemented in Massachusetts, the Company's proposal in this docket should be approved.

Contingent Pricing

The revised RFP proposed by the Company in this proceeding states that prices submitted in response to the RFP "may not be conditioned upon or subject to adjustment based upon the availability of the Federal Production Tax Credit or the Federal Investment Tax Credit, or the availability or receipt of any other government grant or subsidy." This proposed change would eliminate conditioned price offers and avoid having the Company decide which price to accept—the price with the subsidies or the price without the subsidies. We note, however, that the ceiling prices established for distributed generation resources in Rhode Island contains three levels of pricing depending upon which subsidies a particular distributed generation project qualifies for. The three levels of subsidies that distributed generation projects can qualify for are follows:

- The Federal Renewable Electricity Production Tax Credit (PTC) pursuant to 26 USC § 45 and/or the Federal Business Energy Investment Tax Credit (ITC) pursuant to 26 USC § 48.
- Bonus depreciation pursuant to 26 USC § 168.
- Both of the above.

To ensure that distributed generation projects are subject to the appropriate ceiling price, the developer of such projects is required to certify as to which of the subsidies it will receive. In the long-term contracting statute, there are no ceiling prices, the projects are generally larger, and one would expect competition to establish the appropriate price and let the developer assess the risk of receiving or not receiving tax subsidies. Therefore, we agree with the Company that the RFP should not allow prices contingent upon receipt of tax subsidies. Any differences with the distributed generation ceiling prices are acceptable based upon the different characteristics of the projects and the processes used to select them.