LEVITAN & ASSOCIATES, INC.

To: Rhode Island Public Utilities Commission
From: Ellen Cool, Levitan & Associates, Inc., on behalf of the Rhode Island Division of Public Utilities & Carriers and the Rhode Island Office of Energy Resources
Date: June 22, 2018
Re: Docket #4822, Review of Proposed Solicitation of Long-Term Contracts for Renewable Energy and Renewable Energy Certificates Pursuant to § 39-26.1-1 et seq.

Introduction

On April 20, 2018, the Narragansett Electric Company d/b/a National Grid ("Narragansett") filed a draft Request for Proposals ("RFP") for review and approval by the Rhode Island Public Utilities Commission (the "Commission"). The RFP seeks competitive offers for up to 400 MW of energy and renewable energy certificates ("RECs") from newly developed renewable energy resources, under long term contracts. Narragansett is seeking the Commission's approval of this RFP pursuant to the Long-Term Contracting Standard for Renewable Energy, R.I. Gen. Laws § 39-26.1-1 et seq. ("LTC Standard"). The purpose of the RFP is to satisfy Narragansett's remaining obligations under the LTC Standard, and to advance Governor Gina M Raimondo's goal of facilitating the development of 1,000 MW of clean energy resources by 2020. Narragansett's development of the draft RFP was drafted in consultation with the Rhode Island Office of Energy Resources ("OER") and the Rhode Island Division of Public Utilities and Carriers ("Division"), which were given several opportunities to review and provide comments on preliminary drafts.

The draft RFP was filed with the Commission on April 20, 2018 in Docket No. 4822. Intervenors were invited to file comments by June 7, 2018. Comments were filed by Brookfield Renewable ("Brookfield"), Vineyard Wind LLC ("Vineyard Wind"), FirstLight Power Resources, Inc. ("FirstLight"), RENEW Northeast, Inc. ("RENEW"), and Bay State Wind LLC ("Bay State Wind").

The Division and OER requested that Levitan & Associates, Inc. ("LAI") review the RFP for consistency with the LTC Standard and the Rules and Regulations Governing Long-Term Contracting Standards for Renewable Energy ("Regulations"). This memorandum documents LAI's comments on Narragansett's draft RFP and on comments filed in this docket.

Summary of Conclusions Regarding Consistency with the LTC Standard and Regulations

Based upon a review of the RFP, LAI offers the following conclusions:

- Overall, the RFP bid solicitation, evaluation, selection process, and timetable conforms to industry standards for transparency and fairness relative to similar renewable procurements undertaken in Rhode Island and across the region.
- The overall target procurement amount of 400 MW is large enough to attract timely, competitive bids from cost-effective clean energy resources that may be able to take advantage of the phased-down investment tax credit ("ITC"), while advancing important state energy and environmental policy goals in a manner that balances consumer interests. The target amount facilitates contracting for a diversified portfolio of clean energy resources in a commercially-reasonable and cost-effective way. The RFP does not place a MW contract size cap on any single proposed project, which could limit flexibility in selecting an optimal portfolio of a diverse set of resources for Rhode Island consumers. The RFP should define a contract cap, which may be in the range of 200 to 300 MW.
- The RFP solicitation method, bidder requirements, and selection criteria are consistent with the LTC Standard, as further described below.
- The timetable and methods for the solicitation generally meet the requirements set forth in Section 4.2(a) of the Regulations, with three exceptions. These exceptions can be readily addressed by Narragansett during regulatory proceedings and before the issuance of the final RFP.
    - The RFP must explain the rationale for choosing to conduct a competitive public solicitation rather than negotiation with individual developers (item 2);
    - The RFP must state Narragansett's intent regarding the use of the products procured under this solicitation (item 4); and
    - The RFP must address what Narragansett intends to do in the event that no contracts are selected through this solicitation (item 6).
- The RFP eligibility requirements (Section 2.2.2) are reasonable and generally consistent with other recent procurements for renewable resources across the region. The requirements will facilitate an efficient procurement, will not unreasonably restrict project eligibility, and will promote competition.
- LTC Standard allows Narragansett to procure energy, capacity and RECs, but the RFP only solicits energy and RECs. It is appropriate for Narragansett to <u>not</u> purchase capacity in this RFP, since this will insulate customers from capacity market price risk.
- The eligibility and threshold requirements, project milestones, site control, interconnection requirements, and other RFP minimum requirements reasonably accommodate proposals for qualified renewable technologies, with minor modifications. LAI recommends that Narragansett consider clarifying the bidder requirements for demonstrating site control, as further discussed below.

LAI has not reviewed and cannot comment on any of the documents to be attached as appendices to the RFP which have not been filed, including the draft contract and bidder response package.

Based on LAI's review, LAI recommends that the Commission approve Narragansett's RFP, with three conditions: (1) that Narragansett address the three items that were omitted from the Regulation requirements; (2) that the RFP clarify the requirements for demonstrating site control to accommodate all eligible renewable technologies; and (3) that the RFP define a contract cap in the range of 200 to 300 MW.

Consistency with Generally Accepted Professional Practice

The draft RFP provides clear instructions to prospective bidders regarding the proposal requirements, eligibility and threshold requirements, acceptable forms of bid pricing, and how to submit proposals. The RFP provides bidders an opportunity to seek clarification on the RFP requirements, and provides clear instructions on how proposals should be submitted. The RFP generally describes the price and non-price evaluation criteria and metrics that will be used to evaluate bids, and informs bidders about the relative weighting between the price (80%) and non-price (20%) factors. The draft RFP does not provide the specifics of how the individual non-price criteria will be scored. This level of detail regarding the bid evaluation process is fair, provides sufficient transparency, and is consistent with the information furnished in RFPs used in other successful procurements undertaken by Narragansett and other entities across the region.

In addition, the RFP provides a reasonable timetable for the procurement, including the amount of time allowed for bidders to prepare their proposals, and the proposed milestones for selection and filing of contracts with the Commission. The timeframes are typical of other successful procurements in the region.

Consistency with R.I. Gen Laws § 39-26.1-1 *et seq.*

The LTC Standard sets forth the solicitation method, bid requirements, and selection criteria. The RFP is consistent with these statutory requirements, as follows:

- Consistent with R.I. Gen. Laws § 39-26.1-3(a), the RFP requires that projects offered into this RFP meet the definition of a "newly developed renewable energy resource" as defined in R.I. Gen. Laws § 39-26.1-2(6). The RFP further clarifies that a project is considered "newly developed" if the proposed facility "must not have begun operation, and developers must not have implemented investment or lending arrangements to finance construction." (RFP Section 2.2.2.2b).
- The RFP (Section 2.2.2.2a) requires that an electric generation facility offered in response to the solicitation must be an "eligible renewable energy resource." This

requirement is consistent with R.I. Gen. Laws § 39-26.1-2(4), § 39-26-5 and Section 3.16 of the Regulations.

- The RFP limits the allowable contract term to 15 years, but permits longer contracts with Commission approval (RFP Section 2.2.2.4). This is consistent with R.I. Gen. Laws § 39-26.1-3(a).
- The RFP states that bids must be "commercially reasonable" in order to be selected for a contract (RFP Sections 1.1, 1.2, 2.2.3.7). This is consistent with R.I. Gen. Laws § 39-26.1-3(a).[1]
- The RFP clarifies that projects must provide other direct economic benefits to the State, such as job creation, increased property tax revenues, or other similar revenues, or pricing benefits (RFP Section 2.3.1). This is consistent with R.I. Gen. Laws § 39-26.1-5(e), and Section 5.2 of the Regulations,

Consistency with the Regulations

The Regulations, in Section 4.2(a), set forth seven items which must be included in a company's filing supporting the timetable and methods for solicitation of contracts. The RFP is compliant with these requirements, with three exceptions:

- R.I. Gen. Laws § 39-26.1-3(b) allows Narragansett to conduct an annual public solicitation or to undertake individual negotiations. Regulations Section 4.2(a) Item 2 requires the RFP to explain the rationale for choosing the proposed method selected for the solicitation and for rejecting other methods. The RFP does not appear to address alternative methods for solicitation.
- Item 4 requires the RFP to "set forth the Electric Distribution Company's intent regarding the use of energy, capacity, NEPOOL GIS Certificates, and any other attributes procured…. " R.I. Gen Laws § 39-26.1-5(b) states that "unless the commission approves otherwise, all energy and capacity purchased by an electric distribution company pursuant to this chapter shall be immediately sold by the electric distribution company into the wholesale spot market…" The RFP lacks a statement specifying how Narragansett intends to use the products procured.

[1] "At least once per year beginning in 2014, the electric distribution company shall conduct solicitations until one hundred percent (100%) of the minimum long-term contract capacity is met; provided, however, that no contracts shall be awarded unless the pricing under such contract(s) is below the forecasted market price of energy and renewable energy certificates over the term of the proposed contract, using industry standard forecasting methodologies as have been used to evaluate pricing in the past solicitation processes reviewed by the commission under this section. In such solicitations, the electric distribution company may elect not to acquire capacity, but shall acquire all environmental attributes and energy." (R.I. Gen Laws § 39-26.1-3(a),

- Item 6 requires the RFP to "address how the Electric Distribution Company will seek to fulfill its annual obligation in the event the annual solicitation does not result in the execution of Commercially Reasonable contracts to fulfill the annual obligation." The RFP states that Narragansett "may, at any time up to final award postpone, withdraw and/or cancel this RFP" (Section 3.7) and that it is not required to award any PPAs unless they are "commercially reasonable long term contracts" (Section 1.2). However, the RFP does not specify how it will proceed in the event that no PPAs are selected through this solicitation.

These deficiencies can be cured by Narragansett during regulatory proceedings.

Procurement Size, Products, and Technology Requirements

The RFP sets a minimum contract size of 20 MW (Section 2.2.2.5), and does not allow net metered or behind-the-meter projects (Section 2.2.2.2). These are reasonable restrictions which will facilitate an efficient and competitive procurement process, since smaller, distributed generation projects are unlikely to be able to compete with grid-scale projects due to economies of scale. Moreover, there are other State programs that are targeted to smaller projects, net metered projects, and behind-the-meter projects that provide local benefits.[2]

The RFP establishes a maximum procurement target of 400 MW of eligible resources through the LTC Standard process. This target exceeds Narragansett's remaining obligation under the LTC Standard, but can materially advance Governor Raimondo's 1,000 MW by 2020 clean energy goal. The choice of 400 MW as the maximum procurement target is reasonable. Based on recent regional procurements for clean energy resources in which Narragansett has been a participant, this size is large enough to attract viable, cost-effective projects to compete in this RFP. This target amount also enables timely development of projects that may be sufficiently advanced to be eligible for the expiring phased-down ITC, and assist Rhode Island in meeting its

[2] The LTC Standard §39-26.1-3(c)(1) does not require Narragansett to enter into contracts that exceed the minimum long term contract capacity, but Narragansett may do so voluntarily, with Commission approval. The RFP (at footnote 7) clarifies that the current shortfall under the LTC Standard is approximately 10.74 MW, which is expressed in terms of long-term contract capacity. The "long-term contract capacity" is the nameplate capacity adjusted by the capacity factor. Since the minimum allowable bid is 20 MW (nameplate capacity), a resource with a capacity factor no higher than 54% would satisfy the LTC Standard shortfall (*i.e.*, 20 MW multiplied by 54% equals 10.74 MW). Some Renewable Energy Resources as defined in R.I. Gen. Laws § 39-26-5(a) typically have capacity factors exceeding 54%. Therefore, a commercially reasonable 20 MW project *may* exceed Narragansett's minimum LTC Standard requirement. Expressed in another way, a project offering only the minimum 10.74 MW of long-term contract capacity and with a capacity factor greater than 54% would not meet the RFP's minimum nameplate capacity of 20 MW. However, this is not a material obstacle for bidder participation, since Narragansett is free to select projects with a long-term contract capacity exceeding the minimum requirement.

short- and mid-term greenhouse gas reduction targets under the Resilient Rhode Island Act.[3] On the other hand, deferring procurement of more clean energy capacity to a future RFP allows Narraganset to take advantage of technology and supply chain improvements that may reduce future project development costs. Thus, 400 MW strikes a reasonable balance between competing objectives.

The RFP sets an effective upper limit of 400 MW for the contract size. Narragansett may receive one or more attractive bids for 400 MW projects, but in selecting those projects may foreclose the opportunity to select very attractive smaller projects, which may also provide some resource diversity benefits. In order to preserve as much flexibility and optionality as possible in selecting a portfolio of contracts, it would be reasonable to set a cap on the maximum contract size for a conforming bid. That cap might reasonably be in the range of 200 to 300 MW.

The choice of 200 MW as the contract cap is useful since it would potentially allow selection of two 200 MW projects. However, a contract cap may reasonably be as large as 300 MW, which would still allow for selecting a diverse, cost-effective portfolio that includes one 300 MW project and one or more smaller projects.

LTC Standard R.I. Gen. Laws §39-26.1-3(a) allows Narragansett to procure energy, capacity and RECs, but the RFP only solicits energy and RECs, and excludes capacity. The energy and RECs procured from the selected project(s) can either be used by Narragansett for benefit of its load, or can be sold in the energy and REC markets, thereby providing value to customers by offsetting the fixed contract payments to the project. In order for Narragansett to receive capacity revenues from the selected projects to offset customer costs, a project would have to clear in the ISO-NE Forward Capacity Auction ("FCA"). Under current ISO-NE market rules, there is a substantial risk that the project would not clear in the FCA and would not earn capacity revenues. If the developer retains the capacity, capacity market risk is shifted from customers to the developer. Thus, customer interests are best served by excluding capacity from this procurement.

In general, the eligibility and threshold requirements, including site control, interconnection and delivery requirements, minimum and maximum contract size, technology requirements, demonstrated relevant experience, and project schedule requirements reasonably accommodate proposals for all eligible renewable energy technologies. It is important to note that offshore wind project development can be considerably longer than for land-based renewable projects due to siting constraints, logistic complexity, permitting timelines and construction windows.[4] The RFP (Section 2.2.3.2) requires that bidders provide a reasonable schedule for the closing of

[3] To be eligible for the ITC or the Production Tax Credit (PTC), a wind project must "begin construction" no later than December 31, 2019. ITC for solar PV ramps down and then is held at 10% for projects commencing construction in 2022 and beyond. The PTC was phased out for all other technologies after 2017.

[4] The recent 83C RFP for offshore wind projects issued by the Massachusetts electric distribution companies required that the proposals provide for a scheduled commercial operation date before January 1, 2027.

construction financing and commencement of construction, and for the commercial operation date, but does not mandate a firm date by which the project must be in service. This schedule flexibility accommodates offshore wind proposals.

Intervenor Comments

Eligibility of Existing Resources

Brookfield urges the Commission to broaden the eligibility criteria to enable participation of existing energy resources that are qualified as Renewable Energy Resources under the Rhode Island Renewable Energy Standard ("RES"), regardless of vintage, provided they have not delivered to ISO New England in the last three years or more. Brookfield argues that such clean energy resources would be incremental to ISO New England, equivalent to the deployment of new renewable resources, and contribute to Rhode Island's greenhouse gas reduction goals.

Brookfield's suggestion is inconsistent with the plain language of the statute. The LTC Standard (R.I. Gen. Laws § 39-26.1-3(a)) is unambiguous that eligible resources must be "newly developed," meaning that they "have neither begun operation, nor have the developers of the units implemented investment or lending agreements necessary to finance the construction of the unit" (R.I. Gen. Laws § 39-26.1-2(6). Supposing that a hiatus of three years without energy deliveries into ISO New England can convert an existing into a newly developed resource is arbitrary and unsupportable. If the argument is that *any* incremental imports of clean energy into ISO New England help achieve Rhode Island's greenhouse gas reduction goal, then there is no need to require a three-year gap in deliveries. Moreover, contracting for imports of clean energy from existing out-of-region resources changes how each state accounts for its greenhouse gas emissions, but doesn't change the total greenhouse gas emissions, assuming that the annual clean energy production remains the same.

Eligibility of New Intermittent Resources Firmed by Existing Hydropower

Brookfield and RENEW urge the Commission to enable existing small-scale hydropower resources that are blended with newly-developed RES-eligible resources and provide a firm, clean energy product to be eligible under this RFP. Brookfield's argument that a firm, clean energy product would contribute to system reliability and may mitigate exposure to price volatility and increased regional carbon emissions, particularly during peak winter hours, does have merit. RENEW observes that blended products are eligible under the Affordable Clean Energy Security Act (R.I. Gen. Laws § 39-26.1-1 *et seq*.) However, since this procurement is being conducted under the LTC Standard, a blended product which relies on a resource that does not meet the vintage requirement would not be consistent with the LTC Standard and cannot participate in this RFP.

Site Control

Vineyard Wind seeks clarification and some latitude on the requirement that a proposed project have full site control from the generator location to the point of transmission interconnection. RENEW also comments that full site control should not be required, and that letters of intent should be adequate.[5] Vineyard Wind notes that renewable energy of the size contemplated in this RFP are typically planned in stages based on a series of contingencies, so the entire final route of the generator lead line may not be finalized.

LAI concurs that a stringent requirement for a developer to hold full site control for the entire lead line right-of-way or easement from the generator location to the point of interconnection may disadvantage offshore wind proposals. While an offshore wind developer should certainly hold the rights to the off-shore BOEM lease area, depending on the stage of development and the different design options, acquisition of the necessary easements and rights-of-way may not be completed at the time of proposal submission.

For offshore wind and land-based projects, demonstration of an irrevocable right or option to develop the entire generator site footprint should be a threshold requirement, and is essential to ascertain the viability of the project. A letter of intent or memorandum of understanding that can be terminated by either party does not provide sufficient certitude of site control for the generator footprint. Regarding the generator lead line route for transmission interconnection, a bidder should identify the extent of site control and provide a feasible, detailed plan for acquiring any additional necessary rights. Less stringent requirements for site control for the transmission interconnection is consistent with other recent RFPs for clean energy across the region, and does not unduly discriminate against offshore wind projects.

[5] The RFP (Section 2.2.3.3) states that the "bidder must demonstrate that it has control, or an irrevocable option...to acquire control over the site for its proposed generation project, including any rights necessary to access the project site and any rights to the generator lead to the Delivery Point under the PPA (or, if the project is not within ISO-NE, to the point of interconnection for the project.)"