

October 19, 2005

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

RE: Proposed Rules and Regulation Governing the Implementation of a Renewable Energy Standard – Comments by Constellation NewEnergy and Constellation Energy Commodities Group

Dear Ms. Massaro:

Attached hereto are the written comments of Constellation NewEnergy, Inc. And Constellation Energy Commodities Group, Inc. that were delivered at the Commission's public hearing on October 12, 2005. If you have any questions or desire additional information please do not hesitate to contact me.

Sincerely,

Thomas E. Bessette, Esq.
Director Regulatory and Government Affairs
Constellation NewEnergy, Inc.

**TESTIMONY
OF
THOMAS BESSETTE**

**ON BEHALF OF CONSTELLATION NEWENERGY
AND
CONSTELLATION ENERGY COMMODITIES GROUP**

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

**IN RE: REGULATIONS TO IMPLEMENT A RENEWABLE ENERGY
STANDARD PURSUANT TO R.I.G.L. SECTION 39-26-1 ET SEQ.**

DOCKET NO. 3659

GOOD MORNING COMMISSIONERS AND STAFF AND THANK YOU FOR THE OPPORTUNITY TO TESTIFY. MY NAME IS TOM BESSETTE AND I AM THE DIRECTOR OF REGULATORY AND GOVERNMENT AFFAIRS FOR CONSTELLATION NEWENERGY. I AM TESTIFYING THIS MORNING ON BEHALF OF CONSTELLATION NEWENERGY AND CONSTELLATION ENERGY COMMODITIES GROUP (COLLECTIVELY, "CONSTELLATION").

CONSTELLATION ENERGY GROUP

CONSTELLATION NEWENERGY IS A NON-REGULATED POWER PRODUCER IN THE STATE OF RHODE ISLAND AND A LICENSED RETAIL SUPPLIER IN 17 STATES, AND TWO CANADIAN PROVINCES. CONSTELLATION NEWENERGY CURRENTLY PROVIDES OVER 15,000 MEGAWATTS OF ELECTRIC SUPPLY DIRECTLY TO BUSINESS CUSTOMERS THROUGHOUT THE COUNTRY FOR THEIR OWN USE, INCLUDING MANY CUSTOMERS HERE IN RHODE ISLAND. CONSTELLATION ENERGY COMMODITIES GROUP IS A WHOLESALE SUPPLIER OF ELECTRIC POWER TO MANY OF NEW ENGLAND'S ELECTRIC UTILITIES IN CONNECTION WITH EITHER THEIR STANDARD OFFER OR DEFAULT SERVICE OBLIGATIONS. CONSTELLATION NEWENERGY AND CONSTELLATION ENERGY COMMODITIES GROUP ARE SUBSIDIARIES OF CONSTELLATION ENERGY GROUP, A FORTUNE 200 COMPANY HEADQUARTERED IN BALTIMORE MARYLAND. CONSTELLATION ENERGY GROUP ALSO OWNS CONSTELLATION GENERATION GROUP, WHICH OWNS A FLEET OF GENERATING PLANTS, AND BALTIMORE GAS AND ELECTRIC COMPANY, ONE OF THE NATION'S OLDEST AND MOST RESPECTED UTILITY COMPANIES.

RENEWABLE ENERGY PORTFOLIO STANDARD

AS AN INITIAL MATTER CONSTELLATION WISHES TO EXPRESS ITS SUPPORT FOR RENEWABLE ENERGY PORTFOLIO STANDARDS GENERALLY. IN NEW ENGLAND, WE SERVE A SIGNIFICANT NUMBER OF CUSTOMERS IN MAINE AND MASSACHUSETTS, BOTH HAVE RPS REQUIREMENTS.

FURTHER, WE BELIEVE THAT THE REGULATIONS THAT ARE BEING PROPOSED SEEM GENERALLY REASONABLE AND IN LINE WITH WHAT WE HAVE SEEN IN OTHER STATES.

WE DO HAVE ONE IMPORTANT AREA OF CONCERN AND THAT IS WHY I AM HERE TODAY. CONSTELLATION'S CONCERN IS RELATED TO SECTION 8 (CONTRACTING STANDARDS AND PROCUREMENT PLANS). IN PARTICULAR WE TAKE ISSUE WITH THE LANGUAGE THAT REQUIRES UTILITY COMPANIES TO ENTER INTO LONG-TERM CONTRACTS FOR

RENEWABLE ENERGY CERTIFICATES AND ENERGY AND TO RECOVER THOSE COSTS FROM RATEPAYERS. THAT LANGUAGE CAN BE FOUND IN SECTIONS 8.3 THROUGH 8.5.

OUR CONCERN IS TWO-FOLD.

FIRST, ALLOWING UTILITIES TO ENTER INTO LONG-TERM CONTRACTS FOR RECS AND ENERGY RAISES THE UGLY SPECTER OF ANOTHER ROUND OF STRANDED COSTS FOR RHODE ISLAND RATEPAYERS. WHEN RHODE ISLAND DECIDED TO RESTRUCTURE ITS ELECTRICITY MARKET SOME NINE YEARS AGO, UTILITIES DIVESTED THEIR GENERATION AND PURCHASE POWER CONTRACTS AND WERE ALLOWED TO RECOVER THE STRANDED COSTS ASSOCIATED WITH THOSE GENERATING PLANTS AND OUT OF THE MONEY PURCHASE POWER CONTRACTS. ONE OF THE BASIC PRECEPTS OF THE RESTRUCTURING LAW WAS TO UNBUNDLE GENERATION FROM TRANSMISSION AND DISTRIBUTION AND TO REMOVE, ONCE AND FOR ALL, THE RISK OF FUTURE UNECONOMIC INVESTMENTS. ALLOWING UTILITIES TO ENTER INTO LONG-TERM CONTRACTS WITH RENEWABLE DEVELOPERS WOULD, ONCE AGAIN, PLACE THE RISK OF BAD INVESTMENT DECISIONS ON THE BACKS OF RHODE ISLAND RATEPAYERS.

SECOND, CONSTELLATION BELIEVES THAT THE UNDERLYING RATIONALE FOR SUCH A PROVISION IS FLAWED. I ASSUME THAT THE ARGUMENT IS THAT FOR THE RENEWABLE ENERGY INDUSTRY TO FLOURISH IN RHODE ISLAND AND NEW ENGLAND IT IS NECESSARY TO REQUIRE UTILITIES TO ENTER INTO LONG-TERM CONTRACTS WITH RENEWABLE DEVELOPERS. I AM HERE TODAY TO STATE THAT THE MARKETPLACE WILL SOLVE THE PRESUMED PROBLEM. COMPANIES LIKE CONSTELLATION WILL ENTER INTO LONG-TERM CONTRACTS WITH RENEWABLE DEVELOPERS THEREBY PROVIDING THE NECESSARY FINANCING FOR THE PLANTS.

THIS IS NOT A THEORETICAL STATEMENT. CONSTELLATION HAS DONE IT IN THE PAST AND EXPECTS TO DO MUCH MORE OF IT IN THE FUTURE. LET ME GIVE SOME EXAMPLES. CONSTELLATION NEWENERGY HAS CONTRACTS WITH

1. NEW BEDFORD COMMONWEALTH ENERGY FOR 3.2 MEGAWATTS FOR TEN YEARS IN NEW BEDFORD MASSACHUSETTS– THAT PROJECT IS UP AND RUNNING – OUTPUT WILL PRODUCE 25,000 RECS/YEAR
2. AMERESCO – ONE MEGAWATT FOR TEN YEARS IN NORTH HAMPTON MASSACHUSETTS – THAT PROJECT WILL BE RUNNING BY THE FIRST QUARTER OF 2006 – OUTPUT WILL PRODUCE 7800 RECS PER YEAR

3. AMERESCO – SEVEN MEGAWATTS FOR TEN YEARS IN DELAWARE – THAT PROJECT WILL BE UP AND RUNNING BY JANUARY 2006 – OUTPUT WILL PRODUCE 55,000 PJM RECS/YEAR

IN ADDITION, WE HAVE A NUMBER OF OTHER CONTRACTS WITH EXISTING RENEWABLE FACILITIES AND ARE ACTIVELY INVOLVED IN CONTRACT NEGOTIATIONS WITH OTHER NEW RENEWABLE DEVELOPMENTS, SOME CONSIDERABLY LARGER THAN THOSE MENTIONED ABOVE, FURTHER, I HAVE GOT TO ASSUME THAT OTHER RETAIL AND WHOLESALE SUPPLIERS ARE DOING THE SAME THING. SO THE ACTUAL MARKET EXPERIENCE REFUTES THE ARGUMENT THAT STATES THAT RENEWABLE DEVELOPMENT WILL NOT OCCUR ABSENT A GOVERNMENT MANDATE THAT UTILITIES ENTER INTO LONG-TERM CONTRACTS.

TO CONCLUDE, IF THE REQUIREMENT OF FORCING UTILITIES TO ENTER INTO LONG-TERM CONTRACTS IS UNNECESSARY TO MEET THE RENEWABLE ENERGY REQUIREMENTS IN THE REGION, AND IF THERE IS A REAL RISK OF NEW STRANDED COSTS BY DOING SO, WHY IMPOSE THE REQUIREMENT?

THANK YOU FOR THE OPPORTUNITY TO TESTIFY THIS MORNING.