

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF PUBLIC UTILITIES**

Long Term Contracts for Renewable Energy )

D.P.U. 08-88

**COMMENTS OF THE  
NEW ENGLAND POWER GENERATORS ASSOCIATION, INC.  
REGARDING LONG TERM CONTRACTS FOR RENEWABLE ENERGY**

Pursuant to the Order Opening a Rulemaking to Implement the Provisions on Long-Term Contracts for Renewable Energy from An Act Relative to Green Communities, St. 2008, c. 169, § 83 for comments issued by the Massachusetts Department of Public Utility (“DPU”) the New England Power Generators Association, Inc. (“NEPGA”) hereby respectfully files these comments.<sup>1</sup> NEPGA represents eighteen companies and approximately 26,000 megawatts (or over 80 percent) of the generation in New England, and approximately 12,000 megawatts in Massachusetts.

**I. Background**

As a part of the Green Communities Act, signed into law by Governor Patrick on July 2, 2008, the DPU opened a stakeholder process to implement §83 of chapter 169 of the Acts of 2008 - Green Communities Act - as that provision requires electric distribution companies to solicit and enter into cost-effective long-term contracts to facilitate the financing of renewable energy generation. The DPU solicited initial and reply comments and held a stakeholder meeting on November 5, 2008. As a part of the stakeholder process, NEPGA timely commented on November 19, 2008, *inter alia*, that the long-term contracts must maintain a strict consistency with the competitive market policies and rules in New England and that the evaluation criteria

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<sup>1</sup> The views expressed in these comments do not necessarily represent the positions of each of NEPGA’s members. In addition, nothing in these comments should be deemed to waive any rights that NEPGA or any of its members may have to challenge the administrative, procedural or substantive validity of the proposed regulations.

for long-term contract selection should be uniform and non-discriminatory to all participants and incorporate the known benefits available through competitive market fundamentals. The DPU released the proposed regulations contained in 220 C.M.R. § 17.00 et seq on March 6, 2009.

## **II. Comments of NEPGA**

NEPGA supports properly designed competitive markets that enable all resources to compete on a level playing field and to be subject to the competitive pressures of the marketplace to discipline costs. Therefore, NEPGA is categorically opposed to the procurement of renewable generation that does not include a competitive process, with market discipline, for determining the most economic projects. NEPGA maintains that the goals of §83 of the Green Communities Act can be accomplished without compromising the existing electricity markets in New England provided that this initiative is implemented in a transparent and non-discriminatory manner that is consistent with competitive markets principles.

NEPGA appreciates the efforts put forth by the DPU in the development of the regulations, and finds the spirit of the proposed regulations to be largely consistent with competitive market principles. However, NEPGA is concerned that §17.04 regarding the methods for soliciting and entering into long-term contracts is not specific enough in directing the distribution companies to solicit proposals from the competitive market participants. While §17.04 (1) does require distribution companies to “coordinate with DOER in developing their timetables and methods for solicitations and contracting to ensure that ... the methods will foster competitive bids,” that same section further allows that “distribution companies may consider additional reasonable methods of soliciting proposals from renewable energy developers including public solicitations, individual negotiations, or other methods.”

NEPGA finds the requirements of §17.04 (1) to be vague and ambiguous, and resultantly, is concerned that the regulations could ultimately fail to deliver contracts for renewable energy that

have been procured through a competitive process. Therefore, NEPGA urges that the DPU specifically and unambiguously require the distribution companies to release publically-issued requests for proposals (“RFP”) that contain clearly articulated terms and conditions that are non-discriminatory to all interested parties.

By consistently following a well structured RFP process the distribution companies can demonstrate impartiality - a crucial factor in successful resource procurement. At a minimum, the RFP should consistently contain a description of the specific product(s) and the amount of the specific product(s) the distribution company proposes to purchase; the requirements and analysis for project qualifications; a detailed description of the selection process and the method and timing of eligible responses.

Furthermore, the assurance of a transparent and non-discriminatory process will better facilitate the goals of the Green Community Act by ensuring the consideration of all eligible resources and incent private investment in renewable generation. The competitive markets abhor uncertainty or the appearance of impropriety in dealings, and a fully transparent process will better ensure full participation of competitive market participants. The public policy behind competitive procurement of renewable power supplies financed with private capital is implicitly sound in that it drives greater innovation and efficiency.

### **III. Conclusion**

NEPGA appreciates the PUC's consideration of these comments. If you have any questions, please don't hesitate to contact me.



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