

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

<p>ALLCO FINANCE LIMITED, Plaintiff,</p>	<p>Case No. 3:15-cv-608</p>
<p>v.</p>	<p>COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF FOR VIOLATIONS OF THE SUPREMACY AND COMMERCE CLAUSES OF THE UNITED STATES CONSTITUTION AND THE FEDERAL POWER ACT</p>
<p>ROBERT KLEE, in his official capacity as Commissioner of the CONNECTICUT DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, and ARTHUR HOUSE, JOHN W. BETKOSKI III, and MICHAEL CARON, in their official capacity as Commissioners of the CONNECTICUT PUBLIC UTILITIES REGULATORY AUTHORITY.</p>	<p>April 26, 2015</p>
<p>Defendants.</p>	

NATURE OF THE ACTION

1. This case seeks declaratory and injunctive relief to enjoin two separate and distinct State actions. The first State action involves the State of Connecticut’s treatment of renewable energy credits from certain out-of-state renewable electric generating facilities. Like all electric generating facilities, renewable energy facilities generate electricity. However, the environmental attributes from generating electricity using renewable resources are separately represented by what are called renewable energy credits (or “RECs”). For each one megawatt-hour of electricity generated, a renewable energy facility generates one REC. RECs are separate items of property and can be traded and sold separately from the electricity generated by the renewable energy generator. Certain States, of which Connecticut is one, require their utilities to obtain a certain amount of RECs each

year. Connecticut, however, only allows RECs from certain States or Canadian provinces to qualify toward a utility's obligations. For example, a REC from a generator in one of the New England States automatically qualifies in Connecticut, a REC from a generator in Quebec or New York can qualify in Connecticut, but a REC from a generator in every other State cannot.

2. The dormant Commerce Clause prohibits a State from using its regulatory power to discriminate against out-of-state businesses. State action violates the dormant Commerce Clause either if the State acts with discriminatory purpose or if the State action has a discriminatory effect. State action need not facially discriminate against out-of-state businesses in order to violate the dormant Commerce Clause: even facially neutral state action is considered discriminatory in effect when, in practice, it insulates in-state entities from out-of-state competition.

3. Connecticut's ban on certain out-of-state RECs facially discriminates, and also has the effect of discriminating, against Plaintiff's out-of-state renewable energy facilities in violation of the dormant Commerce Clause. This action seeks declaratory and injunctive relief that would allow RECs from any renewable energy generator in the United States to qualify as RECs in Connecticut.

4. The second State action challenged herein involves the Defendants' plan for soliciting proposals for, and thereafter compelling, interstate wholesale energy transactions, in violation of the Supremacy Clause and the Federal Power Act¹.

¹ 16 U.S.C. Ch. 12. A related case to this complaint is *Allco Finance Limited v. Klee*, Civ. A. No. 3:13-cv-01874-JBA before the Hon. Janet Bond Arterton. In *Allco Finance Limited v. Klee*, Civ. A. No. 13-cv-1874, 2014 WL 7004024 (D. Conn. Dec. 10, 2014), Judge Arterton held that substantially identical conduct by the Commissioner did not violate the Federal Power Act and thus was not pre-empted under the Supremacy Clause. That decision is currently on appeal to the Second Circuit Court of Appeals. *See, Allco Finance Limited v. Klee*, No. 15-20 (2d. Cir. filed January 2, 2015).

5. In the Federal Power Act, Congress has occupied the field of wholesale sales of electricity. 16 U.S.C. § 824(b)(1). Thus, States may not enter that field of regulation. In section 210 of the Public Utility Regulatory Policies Act (“PURPA”)², Congress subsequently carved out a role for States to regulate wholesale sales by Qualifying Facilities (or “QFs”)³; but, with respect to wholesale sales by other generators, including generators that the Defendants propose to solicit proposals from, States are not permitted to regulate. Here, the Defendants plainly intend to transgress that line by compelling wholesale transactions between Connecticut’s utilities and counterparties of the Defendants’ choosing. Compelling a specific wholesale transaction – one that would not have taken place but for the State’s compulsion – plainly involves the regulation of wholesale sales, and thus falls squarely within the field that Congress has occupied.

6. Allco Finance Limited (“Allco” or “Plaintiff”) is in the business of developing and operating Qualifying Facilities. This action seeks declaratory and injunctive relief that would prevent the Defendants from soliciting proposals for, and thereafter compelling, interstate wholesale energy transactions, in violation of the Supremacy Clause and the Federal Power Act.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the action brings claims under the United States Constitution and federal law. This Court also has jurisdiction under 16 U.S.C. § 825p, which provides that District Courts of the United States shall have exclusive

² 16 U.S.C. § 824a-3.

³ A cogeneration facility produces both electric energy and steam or some other form of useful energy, such as heat. 16 U.S.C. § 796(18)(A). A small power production facility uses biomass, waste, or renewable resources (such as wind, water, or solar energy) to produce no more than 80 megawatts of electric power. 16 U.S.C. § 796(17)(A). These two categories of generators are Qualifying Facilities.

jurisdiction of violations of the Federal Power Act or the rules, regulations, and orders thereunder, and of all suits in equity and actions at law brought to enforce any liability or duty.

8. The Court is empowered to grant declaratory relief by 28 U.S.C. §§ 2201 and 2202 and Rule 57 of the Federal Rules of Civil Procedure and *Ex Parte Young*, 209 U.S. 123 (1908).

9. This Court is empowered to grant preliminary and permanent injunctive relief by, *inter alia*, 28 U.S.C. § 2202 and Rule 65 of the Federal Rules of Civil Procedure.

10. This Court has personal jurisdiction over Defendants because the Defendants conduct a substantial portion of their duties in the District of Connecticut.

11. The office of the Commissioner of the Department of Energy and Environmental Protection (the “Commissioner” and the “Department”, respectively) is located in Hartford, Connecticut. The offices of the commissioners of the Public Utilities Regulatory Authority (“PURA”) are located in New Britain, Connecticut.

12. Venue is proper in this District under 28 U.S.C. § 1391(b)(1) and (2) because a substantial part of the events giving rise to this action occurred in the District of Connecticut.

THE PARTIES

13. Plaintiff is the owner, operator and developer of various solar projects that are Qualifying Facilities located in Connecticut, Georgia and New York as well as other States. *See*, Section 3(17) of the Federal Power Act, 16 U.S.C. §796(17). Plaintiff is a “qualifying small power producer” within the meaning of 16 U.S.C. §796(17)(D).

14. Defendant Robert Klee is the Commissioner of the Department. Commissioner Klee is sued in his official capacity. The Commissioner, the

Department and entities within the Department (such as PURA) are responsible for administering Connecticut's Renewable Portfolio Standard and Sections 6 and 7 of Connecticut Public Act 13-303.

15. Defendants Arthur House, John W. Betkoski III, and Michael Caron are commissioners of PURA and are sued in their official capacity.

LEGAL BACKGROUND

FERC's exclusive jurisdiction to regulate wholesale transactions.

16. The Federal Power Act gives the Federal Energy Regulatory Commission (the "FERC") exclusive jurisdiction to regulate all wholesale sales of electricity. *See, FPC v. S. Cal. Edison Co.*, 376 U.S. 205, 215 (1964) (Congress left "no power in the states to regulate ... sales for resale in interstate commerce.").

17. Exercising its jurisdiction under the Federal Power Act, the FERC has determined that a multistate, market-based system of setting wholesale electricity prices will lead to the most efficient allocation of generating resources by favoring efficient generators and disfavoring inefficient ones. In New England, the FERC has implemented that policy by authorizing wholesale electricity sales through a multistate market operated by an entity called ISO-New England, a FERC-regulated Independent System Operator. ISO-New England operates an energy market, in which generators compete to sell electricity by submitting "bids" in real time. ISO-New England matches supply and demand on a continuing basis, and, using a FERC-approved auction process, determines the market price for electricity based on the bid of the least costly generation resource needed for supply to match demand. This method is intended to result in the operation of the most efficient set of generation resources at any particular point in time. Generators also sell electricity to wholesale buyers in freely negotiated, voluntary bilateral contracts, pursuant to FERC-approved market-based tariffs. "These tariffs, instead of setting

forth rate schedules or rate-fixing contracts, simply state that the seller will enter into freely negotiated contracts with purchasers.” *Morgan Stanley Capital Grp. Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty*, 554 U.S. 527, 537 (2008).

18. FERC also has exclusive authority to regulate the interstate transmission of electricity.

PURPA’s carve-out to FERC’s exclusive jurisdiction to regulate wholesale transactions.

19. Congress enacted PURPA to address the conditions in the electricity market that evolved since the passage of title II of the Federal Power Act in 1935. *See, New York v. FERC*, 535 U.S. 1, 9 (2002). In Title II of PURPA, Congress amended the Federal Power Act and enacted Section 210 of PURPA in order to create a new class of “favored cogeneration and small power facilities” in the overall regulatory scheme of the Nation’s energy markets. *FERC v. Mississippi*, 456 U.S. 742, 751 (1982).

20. Allco, as a favored Qualifying Facility under PURPA, is *precisely* the type of plaintiff Congress intended to benefit when it created the new class of market participant in the Nation’s energy markets. *See, S. Cal. Edison Co. v. FERC*, 195 F.3d 17, 23 (D.C. Cir. 1999) (“in deciding to confer substantial benefits on ‘small power production facilities’ Congress took care to define the class of potential beneficiaries.”)

21. In Section 210 of PURPA, Congress carved out a role for States to regulate wholesale sales by Qualifying Facilities; thus, a State cannot regulate wholesale sales except by generators that constitute Qualifying Facilities under PURPA. The Defendants’ planned procurement seeks to regulate, indeed compel, wholesale electricity transactions with facilities selected by the Defendants. As a result the Defendants’ planned procurement must be limited to Qualifying Facilities.

Connecticut's Renewable Portfolio Standard

22. Connecticut has established a renewable portfolio standard (“RPS”)(*see* Conn. Gen. Stat. § 16-245a) that requires electric suppliers to have a certain percentage of their electricity mix be attributable to renewable energy sources. In 2015, that percentage is 15% for Class I RECs increasing to 20% by 2020.⁴

23. The RPS requirement can be satisfied by an electric supplier owning renewable generation, entering into a power purchase agreement to acquire renewable energy and the associated RECs, or by the acquisition of RECs alone.

24. Conn. Gen. Stat. § 16-245a(b)(1) creates two types of RECs that qualify for Connecticut's RPS, and thus qualify as Connecticut RECs.

25. The first type of qualifying Connecticut RECs are for energy produced by a renewable energy generating unit that is located within the ISO-New England control area (i.e., Connecticut, Massachusetts, Vermont, New Hampshire, Rhode Island and most of Maine). This type of REC only requires that the generator be located in the ISO-New England control area.

26. The second class of qualifying Connecticut RECs are for energy produced by a renewable energy generating unit that is located within a control area that is adjacent to the ISO-New England control area. The control areas adjacent to ISO-New England are ISO-New York, the area in Northern Maine administered by the Northern Maine Independent System Administrator, Inc. (“NMISA”), and Quebec and New Brunswick in Canada. However, RECs related to energy produced from those adjacent areas only qualify as Connecticut RECs if one other significant condition is satisfied: that the generator obtain potentially costly

⁴ Conn. Gen. Stat §16-1(a)(20) defines “Class I renewable energy source” as electricity derived from (i) solar power, (ii) wind power, (iii) a fuel cell, (iv) geothermal, (v) landfill methane gas, anaerobic digestion or other biogas derived from biological sources, (vi) thermal electric direct energy conversion from a certified Class I renewable energy source, (vii) ocean thermal power, (viii) wave or tidal power, (ix) low emission advanced renewable energy conversion technologies, (x) certain run-of-the-river hydropower facilities or (xi) certain biomass facilities.

transmission rights to transmit the energy to ISO-New England for consumption within ISO-New England.

27. RECs from generating facilities located in States outside of ISO-New England or an adjacent control area do not qualify as Connecticut RECs under any conditions.

FACTS APPLICABLE TO ALL COUNTS

The Defendants' Sections 6 and 7 procurements.

28. In 2013, Connecticut enacted a statute empowering the Commissioner to solicit proposals for renewable energy, to select winners of the solicitation, and to compel Connecticut's two electric utilities (the "Connecticut Utilities") to enter into long-term contracts for the sale of wholesale electricity and/or Connecticut qualifying RECs with the winners. Conn. Public Act 13-303 § §6-8.

29. On February 26, 2015, the Department issued a draft request for proposals under Section 6 and 7 of Public Act 13-303 ("Sections 6 and 7"). *See*, Exhibit A.

30. The Department stated that it plans to issue the final request for proposals, which is likely to be in substantially the same form as the draft RFP (the "RFP"), in the spring of 2015 and compel wholesale energy transactions soon after it completes its review of proposals. The entire purpose of the draft RFP is begin the implementation of the exercise the Commissioner's authority under Sections 6 and 7 to compel those transactions.

31. The RFP will not be the first time that the Commissioner solicited proposals under Section 6. The Commissioner had previously solicited proposals under Section 6 in 2013. Allco's Qualifying Facilities responded to that 2013 solicitation and were in the competitive range, with one facility proposing a lower price than one of the facilities selected, and another facility next in line behind one of the selected facilities.

32. Allco intends to respond to the RFP with its Qualifying Facilities located in Connecticut, some of which would be smaller than 20 megawatts in size. Allco's Qualifying Facilities located in Connecticut are likely to be in the competitive range with other responses to the RFP (as they were in the prior solicitation under Section 6), particularly so if unlawful terms, conditions and competition are eliminated.

33. In addition, Allco has RECs to sell to the Connecticut Utilities from a Qualifying Facility located in the State of Georgia. Connecticut law and the terms of the RFP, however, have banned those RECs from qualification in the State of Connecticut.

34. Allco is also the owner of a Qualifying Facility in New York, an ISO-New England adjacent control area, which will generate RECs. But that Qualifying Facility will not deliver its electricity to the ISO-New England control area because of the additional cost burdens involved in doing so. Connecticut law and the terms of the RFP have banned those RECs from qualification in the State of Connecticut.

35. The RFP contains various other terms that are challenged herein.

36. *First*, as noted above, participation in the RFP is not limited to Qualifying Facilities. Thus the Commissioner plans to exercise his authority under Sections 6 and 7 to compel interstate wholesale energy transactions with non-Qualifying Facilities, as he did with respect to his previous solicitation under Section 6.

37. *Second*, participation is restricted to a minimum bid size of 20 megawatts, which excludes many Qualifying Facilities.

38. *Third*, the RFP requires the payment of substantial fees to participate. Thus the RFP is placing a significant state regulatory burden on very specific generators that Congress sought to benefit when it allowed State's some ability to regulate wholesale sales involving Qualifying Facilities.

39. *Fourth*, the RFP contemplates the compulsion of transactions for wholesale transmission services.

COUNT I

VIOLATION OF THE FEDERAL POWER ACT AND THE SUPREMACY CLAUSE OF THE UNITED STATES CONSTITUTION

40. Plaintiff re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 39 as though fully set forth herein.

41. Under the Supremacy Clause of the United States Constitution, a state law, rule, tariff or action is preempted when Congress intends federal law to occupy the field into which the state intrudes or when state regulation stands as an obstacle to the accomplishment of Congress's goals. Under Part II of the Federal Power Act, 16 U.S.C. § 824(b), Congress has granted FERC the exclusive authority to regulate in the field of wholesale electricity sales, and interstate transmission service. Only FERC may set rates, terms or conditions with respect to wholesale transactions and interstate transmission service.

42. In section 210 of PURPA, Congress carved out a role for States to regulate wholesale sales by Qualifying Facilities; but, with respect to wholesale sales by other generators, including generators that the Commissioner proposes to solicit proposals from, States are not permitted to regulate.

43. Based upon the purpose of Sections 6 and 7 to compel transactions, and the Commissioner's actions in his previous Section 6 procurement, the outcome of the issuance of the draft RFP and the succeeding RFP process will likely be the Commissioner's decision to force a utility to enter a wholesale power contract, which plainly constitutes regulation in the field of wholesale energy sales and is categorically preempted on field pre-emption grounds. The Third and Fourth Circuits have recently invalidated materially indistinguishable programs on field

preemption grounds. *PPL EnergyPlus LLC v. Nazarian*, 753 F.3d 467 (4th Cir. 2014), *pet'n for cert. filed*, Nos. 14-614, 14-623; *PPL EnergyPlus LLC v. Solomon*, 766 F.3d 241 (3d Cir. 2014), *pet'n for cert. filed*, Nos. 14-634, 14-694. It matters not what effect on market prices the Defendants' actions may have: "If Congress evidences an intent to occupy a given field, any state law falling within that field is pre-empted." *Silkwood v. Kerr-McGee Corp.*, 464 U.S. 238, 248 (1984).

44. The Commissioner's likely decision to force the Connecticut Utilities to enter a wholesale power contract is also preempted on conflict pre-emption grounds. FERC has adopted a market-based approach to regulating the energy markets in New England. Under that framework, FERC has approved an auction-based energy market in which generators compete in real time to provide energy at lowest cost. It has also allowed generators to enter into voluntarily negotiated long-term contracts. In ordering Connecticut Utilities to contract with non-Qualifying Facilities, the Commissioner will pursue a conflicting regulatory framework – one in which the State can compel a utility to enter into a non-voluntary wholesale power transaction at a price that differs from the prevailing market price. Not only does that framework conflict with FERC's chosen regulatory approach, but it also undermines the special treatment that Congress intended to give to small renewable generators under PURPA. This is the epitome of a conflict with federal law.

45. Congress carved out a role for States to regulate wholesale sales by Qualifying Facilities; thus, a State cannot regulate wholesale sales except by generators that constitute Qualifying Facilities under PURPA. The Defendants' planned procurement seeks to regulate, indeed compel, wholesale electricity transactions with facilities selected by the Defendants. As a result the Defendants' planned procurement must be limited to Qualifying Facilities.

46. Allco and its Qualifying Facilities will be injured by the Commissioner allowing competition in the RFP from generators that are not Qualifying Facilities. Congress relaxed the ban on State's involvement in the area of wholesale sales in order to benefit Qualifying Facilities, such as Allco's. Thus any procurement that attempts to go beyond the limits set by Congress harms the very market participants that Congress created and intended to benefit. This "denial of a benefit in the bargaining process," *Clinton v. City of New York*, 524 U.S. 417, 433 n.22 (1998), will would be plainly caused by the Commissioner's own decision to include non-Qualifying Facilities in the procurement.

47. In addition to the Defendants' planned unlawful actions compelling wholesale transactions, the Defendants also seek to impose burdensome conditions upon a Qualifying Facility's participation in the RFP, including a fee merely to submit a proposal. The imposition of such a fee is a State imposed regulatory condition on the exercise of a Qualifying Facility's right to participate in the Nation's energy market. All such burdensome State regulatory conditions are pre-empted by 16 U.S.C. § 824a-3(e). When Congress relaxed the Federal Power Act's prohibition on State's regulating wholesale transactions, it only did so if, and to the extent, a State complies with the rules under Section 210 of PURPA. Imposition of such a fee imposes a condition that simply does not appear in Section 210 of PURPA or the FERC's regulations thereunder.

48. Similarly, Section 210 of PURPA does not permit a State to exclude certain sized Qualifying Facilities as market participants. Yet that is what the Defendants propose to do by requiring a 20-megawatt minimum for participation.

49. Plaintiff as developer and owner of Qualifying Facilities in Connecticut has specific protected interests as a Congressionally-created participant in the Nation's energy markets under the Federal Power Act and PURPA. Plaintiff seeks

to prevent State officials from circumventing those benefits and the special status as market participants Congress sought to confer on Qualifying Facilities.

50. Congress created Qualifying Facilities specifically so they could replace non-Qualifying Facility generation in the Nation's energy markets. The Defendants' proposed actions directly harms Allco's Qualifying Facilities by effectively eliminating their special status as Congressionally-favored market participants.

51. Plaintiff will suffer an injury-in-fact based on its economic interest in the procurement; that injury-in-fact will be caused by the Commissioner's illegal actions in connection with the procurement; and that injury-in-fact would be redressed when the Commissioner revises the procurement to comply with federal law.

52. Plaintiff will suffer injury-in-fact because there is an increased risk that the Connecticut Utilities long-term forecasted avoided costs will decrease by the selection of non-Qualifying Facilities, thus reducing the revenue that Plaintiff's Qualifying Facilities would receive under the utilities' must-buy obligation under Section 210 of PURPA.

53. Plaintiff will suffer injury-in-fact because its Qualifying Facilities less than 20 megawatts in size will be barred from participating in the solicitation.

54. The Plaintiff will suffer injury in fact because there is an increase in the risk that the costs incurred by Plaintiff in developing its Connecticut-based Qualifying Facilities will be lost because of the unlawful terms and conditions of the RFP and the Defendant's unlawful actions in connection therewith.

55. The Plaintiff will suffer injury because there is an increased risk that one or more of the Plaintiff's projects would not be selected for a valuable contract because of unlawful competition and terms in the RFP and the Defendant's actions in connection therewith.

56. It is likely that the Plaintiff's injuries will be redressed by a favorable decision. If the Plaintiff receives a favorable decision in this case, it is likely, (i) the Commissioner would revise the RFP to conform to federal law, (ii) the risk of Plaintiff losing its investments in its developing Qualifies Facilities would be decreased, (iii) the risk of future revenue decrease to Qualifying Facilities from the adverse effect on forecasted long-term avoided costs will be decreased, (iv) the costs that the RFP requires for participation would be eliminated, and (v) Plaintiff's Qualifying Facilities under 20 megawatts would be able to participate in the solicitation.

57. Even if the Commissioner decides to withdraw and not reissue any RFP in the future under Sections 6 and 7, a favorable decision for Plaintiff in this case would redress the future injuries that would result from unlawful State action interfering with Plaintiff's participation in the energy markets.

58. Unless a favorable decision is issued to Plaintiff in this case, the Defendants will more than likely continue take action in violation of the Federal Power Act, PURPA and the Supremacy Clause which will likely adversely affect Plaintiff's participation in any future procurement opportunities.

59. An injunction is necessary and appropriate because Defendants acting in their official capacity are acting in, and will continue to act in, violation of the Constitution and federal law. Without an injunction from this Court, the Defendants will continue to act in violation of the Federal Power Act, the Supremacy Clause and PURPA. This complaint seeks to prevent those future unlawful acts. For that reason, the Plaintiff seeks an injunction requesting that the Defendants be restrained from acting in contravention of controlling federal law in the future.

60. Plaintiff has no adequate remedy at law and no opportunity for compensation for the Defendants' violations of the Supremacy Clause, the Federal Power Act and PURPA.

61. Plaintiff will suffer irreparable harm by the violation of the Supremacy Clause, the Federal Power Act and PURPA, and the balance of harms favors Plaintiff, because Plaintiff will suffer substantial economic losses due to the inability to build its projects, sell the energy and capacity from those projects, and recover the costs it has incurred in developing those projects, but the Defendants are immune from suit for retrospective relief.

62. Granting the requested declaratory and injunctive relief will harm the Defendants and the State of Connecticut less (if at all) than denying the relief would harm Plaintiff.

COUNT II

VIOLATION OF THE DORMANT COMMERCE CLAUSE OF THE UNITED STATES CONSTITUTION

63. Plaintiff re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 62 as though fully set forth herein.

64. Under the dormant Commerce Clause, state action is illegal if it either facially discriminates against out-of-state businesses or has the purpose or the effect of discriminating against out-of-state businesses. Here, Connecticut's action does both.

65. Connecticut's prohibition is not closely tailored to achieve any legitimate local purpose. Nor does the prohibition provide for putative local benefits to Connecticut that outweigh the burdens on interstate commerce.

66. Once a State broadens the type of RECs it permits beyond those from facilities that are located within its borders, the State is regulating interstate

commerce in a manner not related or permitted by its reserved power under the Federal Power Act to provide a subsidy to encourage in-state generation.⁵

67. While it may be convenient for the State of Connecticut to rely on the ISO-New England accounting system for RECs, there are many other equally verifiable REC tracking systems throughout the United States.

68. Connecticut's ban on RECs outside the ISO-New England region is simply regional protectionism. Plaintiff suffers, and will continue to suffer, injury because the Plaintiff is denied the ability to sell the RECs from its Georgia and New York facilities to the Connecticut Utilities and have those RECs qualify to meet the Connecticut Utilities' RPS requirements. But for Defendants' facial discrimination, Plaintiff would be able to sell the RECs from its Georgia and New York facilities to the Connecticut Utilities and have those RECs qualify to meet the Connecticut Utilities' RPS requirements.

69. Plaintiff has no adequate remedy at law and no opportunity for compensation for Defendants' violations of the dormant Commerce Clause.

70. Plaintiff will suffer irreparable harm by the violation of the dormant Commerce Clause, and the balance of harms favors Plaintiff, because Plaintiff will suffer substantial economic losses, but the Defendants are immune from suit for retrospective relief.

71. Because the prohibition on out-of-region RECs is the result of the Defendants' and the State of Connecticut's use of its regulatory power to facially discriminate against certain out-of-state sellers of RECs, the State of Connecticut's

⁵ This action does not challenge Connecticut's power to require that RECs be related solely to facilities located within its borders under a State's reserved power under the Federal Power Act to regulate the character of electric generating facilities within its own borders. For this reason, specialty RECs related to such programs as Connecticut's ZREC/LREC programs are not challenged herein (both of which involve solely Qualifying Facilities located solely in Connecticut).

and the RFP's prohibition of those RECs must be set aside as inconsistent with the dormant Commerce Clause.

COUNT III

VIOLATION OF 42 U.S.C. §1983

72. Plaintiff re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 71 as though fully set forth herein.

73. Under 42 U.S.C. § 1983, “[e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State . . . subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”

74. 42 U.S.C. § 1983 affords remedies for deprivation of “rights” under statutes as well as the Constitution, *see Maine v. Thiboutot*, 448 U.S. 1 (1980) (§ 1983 claim for deprivation of any federal statutory right), provided that Congress has not foreclosed such an enforcement in the statute itself, *Marshall v. Switzer*, 10 F.3d 925, 928 (2d Cir. 1993).

75. Plaintiff as developer and owner of Qualifying Facilities in Connecticut has specific protected interests as a Congressionally-created participant in the Nation's energy markets. Congress created Qualifying Facilities specifically so they could replace non-Qualifying Facility generation in the Nation's energy markets.

76. PURPA clearly focuses on small and nontraditional energy supplying facilities, who hence are “intended beneficiar[ies]” thereof. *Freehold Cogeneration Assoc. L.P. v. Bd. Regulatory Comm'rs*, 44 F.3d 1183, 1191 (3d Cir. 1995); *Independent Energy Producers Ass'n v. California Pub. Utils. Comm'n*, 36 F.3d 848, 850 (9th Cir. 1994); *S. Cal. Edison Co. v. FERC*, 195 F.3d 17, 23 (D.C. Cir. 1999) (“in

deciding to confer substantial benefits on ‘small power production facilities’ Congress took care to define the class of potential beneficiaries.”)

77. The Defendants’ proposed actions directly harm Allco’s Qualifying Facilities’ rights by effectively eliminating the benefit of their special status as Congressionally-favored market participants because the Defendants are treating non-Qualifying Facilities as entities for which a State can regulate wholesale transactions.

78. In addition, Section 210(a) of PURPA provides all Qualifying Facilities with a guaranteed federal right to sell a QF’s energy and capacity to electric utilities at that utilities long-term forecasted avoided costs.⁶ Section 210(f) of PURPA requires States to implement that guaranteed federal right. Here, by compelling wholesale transactions with non-Qualifying Facilities, the calculation of those long-term avoided costs will be adversely affected injuring Allco’s Qualifying Facilities’ right to sell at the rate that would have applied but for the Defendants’ unlawful actions.

79. Allco is an “intended beneficiary of a statutory scheme that prevents governmental interference [which] gives it rights enforceable against governmental interference in an action under § 1983.” *See, Golden State Transit Corp. v. City of Los Angeles*, 493 U.S. 103, 106 (1989). The Defendants’ planned actions will violate and interfere with Allco’s Qualifying Facilities’ right to participate in the Nation’s energy markets and enjoy the special status Congress conferred. In addition, the Defendants’ actions will interfere with Allco’s rights under the Federal Power Act and PURPA to have the avoided costs of the utilities determined without regard to unlawful compelled wholesale transactions.

80. Moreover, Allco is a seller of RECs from its Qualifying Facilities that have been discriminated against in violation of the dormant Commerce Clause.

⁶ *See*, 16 U.S.C. §824a-3(a); 18 C.F.R. §292.304(d)(2)(ii).

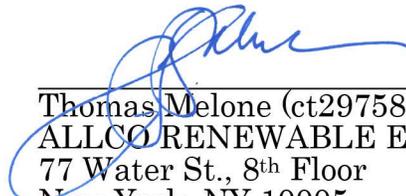
PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

- (1) That the Court find and declare as follows:
 - a. (i) the Defendants can only exercise their authority under Sections 6 and 7 with respect to Qualifying Facilities, (ii) any action taken by the Defendants to compel a transaction with either non-Qualifying Facilities or transmission service projects is pre-empted, (iii) the imposition of the fee required for participation in the RFP by Qualifying Facilities is pre-empted, (iv) requiring Qualifying Facilities be a minimum project size for participation violates Section 210 of PURPA and the Federal Power Act, and (v) that any agreements executed by the Connecticut Utilities pursuant to the RFP other than with Qualifying Facilities are void *ab initio*;
- (2) That this Court enjoin the Defendants from issuing further solicitations, orders or decisions that are inconsistent with the Federal Power Act and PURPA and issue an order (i) barring the issuance of the RFP in its current form, (ii) barring non-Qualifying Facility participation in the RFP, (iii) barring participation in the RFP by transmission service projects, (iv) the fee required for participation, (v) barring a minimum project size for QF participation and (vi) barring the selection of any projects therefrom by the Defendants other than Qualifying Facilities;
- (3) That this Court find and declare that the State of Connecticut's and the Defendants' prohibition on out-of-region RECs violates the dormant Commerce Clause;
- (4) That this Court award Plaintiff damages and their reasonable attorneys' fees to the extent allowable under 42 U.S.C. §§ 1983 and 1988; and

(5) That Plaintiff be granted such other further relief as the Court may deem just and proper.

Dated: April 26, 2015



Thomas Melone (ct29758)
ALLCO RENEWABLE ENERGY LIMITED
77 Water St., 8th Floor
New York, NY 10005
Telephone: (212) 681-1120
Facsimile: (801) 858-8818
Thomas.Melone@AllcoUS.com

Attorneys for Plaintiff

EXHIBIT A



February 25, 2015

Dear New England Energy Market Stakeholder,

The Connecticut Department of Energy and Environmental Protection ("CT DEEP"), the Massachusetts Department of Energy Resources ("DOER") and the electric distribution companies of Massachusetts and Rhode Island¹ are requesting comments on their Draft Request for Proposals for Clean Energy and Transmission ("Draft RFP"). The Draft RFP was developed pursuant to the clean energy goals of the States of Connecticut and Rhode Island, and the Commonwealth of Massachusetts. Through the proposed RFP, the soliciting parties seek to identify projects that may enable each State to achieve their respective goals.

Comments to the draft RFP are requested, from all interested parties. All comments will be taken under consideration for possible revisions to the Draft RFP.

Interested parties may access the Draft RFP at www.CleanEnergyRFP.com and are asked to submit written comments to CleanEnergyRFP@gmail.com by March 27, 2015. Respondents should observe the following guidelines when preparing comments:

- Respondents should offer specific comments and be detailed when proposing modifications. The soliciting parties will be best able to consider comments that cite specific sections of the Draft RFP and offer complete alternative language.
- Respondents should demonstrate how proposed modifications will enhance the success of the proposed RFP and advance State clean energy goals.

All comments received will be posted to the RFP website in their entirety. The identity of any commenter and all information contained within the comments will not be confidential.

The incorporation of proposed changes into the Final RFP will be at the discretion of the soliciting parties. A summary of any modifications will be prepared and posted prior to issuance of a Final RFP.

Thank you for your participation in this important initiative and we look forward to receiving constructive comments to the Draft RFP.

The Connecticut Department of Energy and Environmental Protection
The Massachusetts Department of Energy Resources
Eversource Energy
National Grid
Unitil

¹ Electric distribution companies include Fitchburg Gas and Electric Light Company, d/b/a Unitil; Massachusetts Electric Company, Nantucket Electric Company and The Narraganset Electric Company, d/b/a National Grid; and NSTAR Electric Company and Western Massachusetts Electric Company, d/b/a Eversource.

Draft 02/25/15



{Date}

SPECIFIED STATE AGENCIES AND ELECTRIC DISTRIBUTION COMPANIES IN CONNECTICUT, MASSACHUSETTS AND RHODE ISLAND

NOTICE OF REQUEST FOR PROPOSALS FROM PRIVATE DEVELOPERS FOR CLEAN ENERGY AND TRANSMISSION

IMPLEMENTATION OF CERTAIN PROCUREMENT STATUTES

INTRODUCTION

Pursuant to the clean energy goals of the States of Connecticut, Rhode Island, and the Commonwealth of Massachusetts (collectively the “Procuring States”), this Request for Proposals (“RFP”) is soliciting offers for clean energy and transmission to deliver clean energy. The solicitation is conducted in accordance with and in fulfillment of certain legal requirements in the three states. However, this solicitation is broader in scope and geography than those state-specific legal requirements and therefore, certain aspects of this RFP may require legislative and/or regulatory action in order to ensure cost recovery for certain types of proposals. The Soliciting Parties, as defined below, seek to identify projects that may enable parties in each state to achieve their respective state’s clean energy goals more cost effectively than if each state were to proceed unilaterally while also complying with the applicable legal requirements of each state.

Accordingly, the Commissioner of the Connecticut Department of Energy and Environmental Protection (“CT DEEP”) provides this RFP regarding the acceptance of proposals from developers pursuant to Sections 6 and 7 of Connecticut Public Act 13-303, *An Act Concerning Connecticut’s Clean Energy Goals*, as well as his authority under Connecticut General Statutes Section 16a-14. In addition, Fitchburg Gas and Electric Light Company, d/b/a Unitil, Massachusetts Electric Company and Nantucket Electric Company, d/b/a National Grid, and NSTAR Electric Company and Western Massachusetts Electric Company (collectively, “Massachusetts EDCs”) provide this RFP regarding the acceptance of proposals from developers pursuant to Section 83A of the Green Communities Act as added by chapter 209 of the Acts of 2012, *An Act relative to competitively priced electricity in the Commonwealth* (“Section 83A”). Further, The Narragansett Electric Company, d/b/a National Grid (“Narragansett”), provides this

Draft 02/25/15

RFP regarding acceptance of proposals from developers pursuant to Chapter 31 of Title 39 of the General Laws of Rhode Island, the Affordable Clean Energy Security Act (“Chapter 39-31”) (collectively, the “Procurement Statutes”). CT DEEP, the Massachusetts EDCs and Narragansett shall collectively be referred to herein as the “Soliciting Parties.”

I. OVERVIEW

1.1 BACKGROUND, PURPOSE AND ORGANIZATIONAL STRUCTURE

Pursuant to the clean energy goals of the Procuring States, this RFP is soliciting offers for clean energy and for transmission to allow for the delivery of clean energy to the Procuring States. The essential purpose of this three-state procurement is for parties in each state to identify any projects that offer the potential for the Procuring States to meet their clean energy goals in a cost-effective manner that brings additional regional benefits. Soliciting Parties in the three states have decided to act jointly to open the possibility of procuring large-scale projects that no state could procure if it acted unilaterally. Although the three-state process opens up the possibility of large-scale projects, parties in each state will select the project(s) that is/are most beneficial to its customers and consistent with its particular Procurement Statutes. Consequently, evaluation and selection will involve an iterative process by which the parties from each state will first review and rank bids based on the requirements of their respective state. Then the parties from all three of the Procuring States will collaborate to determine whether together they can create a portfolio of projects that would reduce the cost to customers in each of the three states and still comply with each state’s requirements and clean energy goals.

The Procurement Statutes are described in Appendix H to this RFP. Prospective bidders are expected to thoroughly review the Procurement Statutes to have a full understanding of the purpose and goals of this solicitation for each of the Procuring States.

Please note that although some of the Procurement Statutes address only generation, this solicitation also invites bids for transmission projects that would deliver incremental clean energy. This is in recognition of the fact that new stand-alone transmission projects may offer the potential to deliver incremental clean energy to the Procuring States, and that some of the generation projects that submit bids may require new transmission to deliver their output.

The organizational structure for this RFP is as follows:

The “Evaluation Team” will receive the bids including confidential materials and conduct evaluation and rank bids and will also engage a consultant to assist in the evaluation. The Evaluation Team consists of entities listed in the Introduction to this RFP, as well as The Connecticut Light & Power Company (“CL&P”), The United Illuminating Company (“UI”), the Connecticut Procurement Manager, the Connecticut Office of Consumer Counsel, the Connecticut Office of the Attorney General, and the Massachusetts Department of Energy Resources (“DOER”). All bid evaluation for Connecticut, will be conducted by CT DEEP, in consultation with the Connecticut Office of Consumer Counsel, Connecticut Office of Attorney

Draft 02/25/15

General, Connecticut Procurement Manager, and the Connecticut EDCs, with the assistance of a consultant engaged by CT DEEP (the “CT Consultant”). The CT consultant will act independently to assist the CT DEEP in reviewing and analyzing any modeling performed by a consultant retained by the Evaluation Team.

The electric distribution companies that are a part of the Evaluation Team (“EDCs”) have all executed the Standard of Conduct document attached as Appendix J to this RFP. The Standard of Conduct prohibits any discussion of this RFP between EDC personnel participating on the Evaluation Team and EDC personnel involved in the preparation of bids in response to this RFP, other than as part of discussions that are conducted as part of the RFP process (e.g. bidder conferences or formal bidder Q&A).

The “Selection Team” will consider the threshold criteria, the qualitative criteria, and the results of the evaluation and determine projects for selection. In Massachusetts and Rhode Island, the Selection Team consists of the EDCs for the relevant state. In Connecticut, the selection team is the CT DEEP acting in consultation with the Connecticut Procurement Manager, the Connecticut Office of Consumer Counsel, and the Connecticut Office of the Attorney General. The Selection Team may consult with the Evaluation Team.

The EDCs will be responsible for final contract negotiation and execution, and for seeking regulatory approval of any executed contracts.

Staff of the New England States Committee on Electricity (“NESCOE”) is not one of the Soliciting Parties or a member of any of the aforementioned teams. NESCOE assisted the Soliciting Parties in the development of the RFP as a facilitator. As such, NESCOE staff and NESCOE managers from states not participating in this procurement will not receive confidential bid materials or participate in the review of bids. Given the New England states’ continuing interest in various infrastructure investments that would alleviate constraints in the region’s natural gas infrastructure and improve power system reliability and economic competitiveness, it is possible that, following the evaluation of bids received, the Soliciting Parties may invite certain bidders to consider sharing their bids with NESCOE staff and relevant representatives of non-procuring New England states.¹

1.2 CALL FOR PROPOSALS

The Soliciting Parties are seeking proposals from qualified renewable and/or qualified large-scale hydropower resources (Qualified Clean Energy, defined in Section 1.2.1), and/or from developers of Transmission Projects to provide for the Delivery (each as defined in Section 1.2.1) of incremental Qualified Clean Energy to the New England system.

If a bidder of Qualified Clean Energy offers the same such energy in more than one proposal (e.g., teamed with a new Transmission Project required for Delivery in one proposal, and

¹The appropriate terms to protect and limit disclosure of confidential information would be subject to negotiation with NESCOE staff and/or any non-procuring states.

Draft 02/25/15

teamed with an alternative new Transmission Project in another proposal), then the bidder must note such multiple submissions in each of its affected proposals in order to ensure no more than one is selected. Likewise, notice must be provided by a bidder of a Transmission Project or upgrade supporting the Delivery of energy in more than one proposal, but not able to support all proposals if accepted. In order to accommodate combination bids, it is acceptable to submit negative contingent bids (e.g., Bid A cannot be accepted with Bid B).

Individual Projects may be combined to form one bid, however, positive contingent bids (e.g. Bid A cannot be accepted unless Bid B is also accepted) are not allowed.

Any resulting contracts must be finalized between one or more EDCs and the successful bidders based on the offers submitted in response to this RFP. This RFP process, including any selection of preferred projects, does not obligate any EDC to accept any bid or any state or federal regulatory authority to approve any proposed power purchase agreement (“PPA”) or transmission tariff or rate schedule or GWh level procured. Any PPAs, tariffs or rate schedules entered into following this RFP process are subject to any applicable state and federal laws and regulatory approvals. In the case of federal transmission rates and tariffs, such charges are subject to the review and acceptance by the Federal Energy Regulatory Commission (“FERC”) pursuant to the provisions of the Federal Power Act.

1.2.1 DEFINITION OF KEY TERMS

“Delivery”, “Deliver”, or “Delivered” means that Qualified Clean Energy is recognized in the ISO New England (“ISO-NE”) settlement system as: i) injected in the ISO-NE energy market at a specified and agreed upon pricing node (e.g., the generator asset node applicable to an internal resource or the external interface node applicable to an import), and ii) injected under any additional required and agreed upon conditions intended to reflect and realize a generally unconstrained/uncongested delivery of the Qualified Clean Energy throughout the region.

“Qualified Clean Energy Delivery Commitment” means that a specified amount of Qualified Clean Energy must be Delivered or there will be a credit due to the EDCs which will be passed through to the EDC’s transmission customers pursuant to a Performance-Based Tariff.

“Performance-Based Tariff” means a FERC-accepted tariff or contract for a Transmission Project with payments reduced for failure to meet the Qualified Clean Energy Delivery Commitment.

“Qualified Clean Energy” means i.) energy produced by a generating resource qualified to produce Class I² or New (collectively, “Tier 1) Renewable Energy Credits (“RECs”)³ under the Renewable Portfolio Standard (“RPS”) statutes of at least one of the Procuring States (“Tier 1

² Class I generating resources must have a Guaranteed Commercial Operation date on or after January 1 2013 for Massachusetts. For Connecticut it must occur on or after July 1 2016 but no later than December 31, 2020

³ See M.G.L.c.25A § 11F(c), Conn. Gen. Stat. § 16-1(26) and R.I. G.L. § 39-26-2(15)

Draft 02/25/15

Qualified Energy”), or ii.) energy by a generating resource that meets the requirements of (i) except that it is located in a non-contiguous control area, or iii.) energy produced by a hydro resource, including those that meet the requirements of either Section 4 of Connecticut Public Act 13-303 or Chapter 39-31 of the General Laws of Rhode Island (“Hydropower Resource”)⁴.

“Transmission Project” means significant new AC or DC lines or facilities, or significant upgrades to existing lines or facilities. As used in this RFP, Transmission Project does not refer to typical direct interconnection facilities or typical network upgrades built in each case solely associated with the interconnection of the clean energy project to the transmission system.

1.2.2 BID CATEGORIES

Subsections 1.2.2.1 through 1.2.2.3 below describe the three categories of bids that the Soliciting Parties are seeking. Bids with a transmission component must provide for Qualified Clean Energy and/or RECs as part of a PPA (Category 1.2.2.2), or a Qualified Clean Energy Delivery Commitment (Category 1.2.2.3), or a combination of both.

Bids may include multiple categories in a single bid (e.g., a bid including a Transmission Project can be comprised of a Qualified Clean Energy and/or RECs via PPA with a Transmission Project Under a FERC Tariff for a portion of the Transmission Project’s capacity and Qualified Clean Energy via Transmission Project Under a Performance-Based Tariff Containing a Qualified Clean Energy Delivery Commitment for another portion of the Transmission Project’s capacity).

1.2.2.1 QUALIFIED CLEAN ENERGY AND/OR RECS VIA PPA

This category of bids includes the following products: (i) Qualified Clean Energy only; (ii) RECs only; and (iii) Qualified Clean Energy and associated RECs. Bids in this category must be for or, in the case of RECs, associated with, incremental Qualified Clean Energy from Eligible Facilities producing Qualified Clean Energy that satisfies that applicable state’s Procurement Statute. The Qualified Clean Energy must be Delivered to the EDCs throughout the term of the commitment. For proposals in this category the purchase and sale of Qualified Clean Energy and/or RECs would take place under a long-term PPA and would only be for Qualified Clean Energy and/or RECs satisfying the applicable Procurement Statute. Narragansett does not intend to procure any energy or RECS under a PPA pursuant to Chapter 39-31 and is only seeking bids for Qualified Clean Energy via Transmission Project Under a Performance-Based Tariff Containing a Qualified Clean Energy Delivery Commitment (described in Section 1.2.2.3 below).

1.2.2.2 QUALIFIED CLEAN ENERGY AND/OR RECS VIA PPA WITH A TRANSMISSION PROJECT UNDER FERC TARIFF

This category of bids is the same as 1.2.2.1 above, but includes a separate Transmission Project component under a FERC-filed tariff. For example, a developer of Qualified Clean Energy

⁴See Conn. Gen. Stat. § 16-1(a)(53)]; R.I. G.L. §39-31-5.

Draft 02/25/15

generation and developer of a Transmission Project can jointly offer a combined bid that includes the purchase and sale of Qualified Clean Energy under a PPA, and a Transmission Project necessary to Deliver such Qualified Clean Energy. Under this bid category, it is intended that any required Transmission Project to Deliver the Qualified Clean Energy, other than direct interconnection facilities, be priced separately within the proposals and with recovery of associated costs expected to be recovered through a FERC-filed tariff. Under such a proposal, the Transmission Project developer would be responsible for any FERC tariff and rate filings related to the Transmission Project. The FERC tariff may be either a Performance-Based Tariff or a tariff in which payments do not vary based on performance. As stated above, Narragansett does not intend to procure any energy or RECS under a PPA pursuant to Chapter 39-31.

1.2.2.3 QUALIFIED CLEAN ENERGY VIA TRANSMISSION PROJECT UNDER A PERFORMANCE-BASED TARIFF CONTAINING A QUALIFIED CLEAN ENERGY DELIVERY COMMITMENT; NO PPA

This category of bids includes a Transmission Project without an associated PPA. Instead of the EDCs purchasing Qualified Clean Energy via PPAs, the Transmission Project provider would commit to a Performance-Based Tariff containing a Qualified Clean Energy Delivery Commitment. The Qualified Clean Energy provided under this category does not necessarily need to satisfy an existing Procurement Statute. An explanation with additional details of the model for this category of bids is provided in Appendix G.

1.2.3 ELIGIBLE PROJECTS

Eligible Projects are either Eligible Facilities (described in Section 1.2.4) or Transmission Projects providing for the Delivery of Qualified Clean Energy from Eligible Facilities.

1.2.4. ELIGIBLE FACILITY

An Eligible Facility must satisfy the criteria in the Procurement Statutes of one of the three Procuring States. The Evaluation Team will consider bids for other types and quantities of Qualified Clean Energy if submitted in the form of Qualified Clean Energy Via Transmission Under a Performance-Based Tariff Containing a Qualified Clean Energy Delivery Commitment under Section 1.2.2.3.

1.2.5 QUANTITIES AND CONTRACT TERM LENGTHS

Pursuant to the Procurement Statutes, the current approximate authorized procurement levels for Qualified Clean Energy and/or RECs is:

Connecticut:

1375 GWh per year of Qualified Energy under Section 7 of Public Act 13-303; and

125 GWh per year of Class I Qualified Energy under Section 6 of Public Act 13-303

Draft 02/25/15**Massachusetts:**

817 GWh per year of Class I Qualified Energy under Section 83(a)

Rhode Island:

No specific procurement quantity is specified under Chapter 39-31.

The Soliciting Parties are also interested in receiving bids for Qualified Clean Energy in excess of these amounts or that do not qualify under the specified state statutes, so long as those bids are in the form of Qualified Clean Energy Via Transmission Under a Performance-Based Tariff Containing a Qualified Clean Energy Delivery Commitment. As stated above, Narragansett is seeking only this category of bids under Chapter 39-31.

The contract term lengths for the procurement of Qualified Clean Energy and/or RECs provided for under the Procurement Statutes vary by state. The table below sets forth the statutory contract term lengths:

	Tier 1 Renewables	Hydropower
Connecticut	Up to 20 years	Up to 15 years
Massachusetts	10-20 years	N/A
Rhode Island	Not specified in statute	Not specified in statute

Qualified Clean Energy Via Transmission Under a Performance-Based Tariff Containing a Qualified Clean Energy Delivery Commitment that do not qualify under the specified state statutes should include a proposed term length for the EDC commitments thereunder.

1.3 FILING PROTOCOL AND COMMUNICATIONS BETWEEN THE EVALUATION TEAM AND BIDDERS

This RFP and related information can be found under www.cleanenergyRFP.com.

All communications with the Evaluation Team pertaining to this RFP must be submitted via e-mail with the subject line "Regional RFP Procurement" to the Evaluation Team at cleanenergyRFP@gmail.com. Bidders are prohibited from direct contact with individual members of the Evaluation Team or the Evaluation Team's consultant(s) regarding this RFP (other than as directed by the Evaluation Team). Note that staff of the EDCs who are participating in the solicitation and evaluation of bids under this RFP are bound by a Utility

Draft 02/25/15

Standard of Conduct, which, among other things, prohibits signatory staff from communicating any non-public information regarding this RFP with any other utility staff who may be developing or submitting a bid responsive to this RFP.⁵

Prospective bidders may submit written questions to the Evaluation Team pertaining to the solicitation. The Evaluation Team is under no obligation to answer any question submitted after the deadline provided in the schedule set forth in Section 3.1 of this RFP (the "Schedule"). The Evaluation Team will endeavor to publish written responses to questions on a rolling basis, but will not post any responses after the deadline provided in the Schedule. All questions must be submitted to the Evaluation Team at: cleanenergyRFP@gmail.com no later than [date]. All Evaluation Team responses to the questions will be published on the Evaluation Team's website for all participants to view no later than [date].

Proposals shall demonstrate how the bidder and proposed project(s) meet the project eligibility and threshold requirements set forth in this RFP. The Schedule for the competitive solicitation issued in this RFP is set forth below.

1.3.1 PROPOSAL SUBMISSION DEADLINE: [date] at 12:00 P.M. E.S.T. (noon).

Proposals received by the Evaluation Team after the deadline will be rejected.

1.3.2 SUBMISSION REQUIREMENTS

Bidders must submit 8 copies of a public version of each proposal (discussed in 1.3.2.1), and may also submit 8 copies of an un-redacted confidential version (discussed in 1.3.2.2) to _____. The public version may be redacted to remove information that qualifies for confidential treatment pursuant to the state requirements described in Appendix I. Each proposal shall contain the full name and business address of the bidder and bidder's contact person and shall be signed by an authorized officer of the bidder. Bidders must sign the original proposal and include copies of the signature page with the bids. The full name and business address of the bidder must be included in the public version of the proposal(s).

1.3.2.1 PUBLIC VERSIONS OF PROPOSALS

Each proposal must be submitted publicly, with confidential material redacted at the bidder's option, to the Evaluation Team. The CD title should include the words "Public Version" to alert the Evaluation Team that the version will be publicly posted. The public proposals must be complete in all respects other than the redaction of confidential information. Complete proposals must include a properly completed Certification, Project and Pricing Data ("CPPD") Form, although at the bidder's option the CPPD submitted as part of the public version may be a PDF instead of a working Excel file if the bidder submits the un-redacted CPPD form as a working Excel file with the confidential version of the proposal. If there is conflicting information between the information in the CPPD and information in other forms, then the

⁵See "Utility Standard of Conduct, available at Appendix J.

Draft 02/25/15

information in the CPPD will be used in the evaluation. Information elsewhere in the bid cannot be used to modify or qualify any information in the CPPD.

The Evaluation Team will not redact the public versions of proposals. Anything submitted in the public version will be made AVAILABLE TO THE PUBLIC.

1.3.2.2 CONFIDENTIAL VERSIONS OF PROPOSALS

If a bidder elects to redact any confidential business information in the public version of its proposal(s), it must also submit an un-redacted, complete version of the proposal(s) to [PT email address]. The confidential versions of proposals must include the CPPD forms as a working Excel file, with all required information included. The confidential versions of proposals will be treated as confidential and sensitive information by the Soliciting Parties, subject to the treatment of confidential information discussed in Section 1.3.3 below, which can vary by state.

1.3.3 CONFIDENTIAL INFORMATION

Bidders must clearly identify all confidential or proprietary information including pricing. Only legitimate non-public proprietary or sensitive information may be considered confidential, and bidders should not designate any portions of their proposal confidential that do not merit confidential treatment. The Evaluation Team shall use commercially reasonable efforts to treat the confidential information that it receives from bidders in a confidential manner and will not use such information for any purpose other than in connection with this RFP. The Evaluation Team expects to disclose certain bid information to third party consultants and to ISO-NE staff as part of the bid evaluation process. In addition, the Bidder is required to authorize ISO-NE to share any information regarding its project, including but not limited to the results of any interconnection studies performed by the ISO with the Evaluation Team. Depending upon the evaluation of bids received, however, the Evaluation Team may seek permission from bidders to share bids with other individuals or entities. In all such cases, the Evaluation Team would work with bidders on developing appropriate means to protect and limit disclosure of confidential information. If confidential information is sought in any regulatory or judicial inquiry or proceeding or pursuant to a request for information by a government agency with supervisory authority over any of the EDCs, the Evaluation Team shall take reasonable steps to limit disclosure and use of said confidential information through the use of non-disclosure agreements or requests for orders seeking protective treatment, and shall inform the bidders that the confidential information is being sought. The bidder shall be responsible for providing any motions for protective order and associated affidavits to the EDCs to justify withholding the confidential information.

Similarly, bidders shall use commercially reasonable efforts to treat all confidential information received from the Evaluation Team or individual entities serving on the Evaluation Team in a confidential manner and will not, except as required by law or in a regulatory or judicial

Draft 02/25/15

proceeding, disclose such information to any third party or use such information for any purpose other than in connection with this RFP; provided, however that if such confidential information is sought in any regulatory or judicial proceeding, the bidders shall take reasonable steps to limit disclosure and use of said confidential information through the use of non-disclosure agreements or requests for orders seeking protective treatment, and shall inform the Evaluation Team that the confidential information is being sought.

Additional state-specific information concerning the confidentiality of information pursuant to state statutes is provided in Appendix H.

In the event confidential information is submitted to the Evaluation Team and confidential treatment is not afforded by a governmental agency of one of the Procuring States, other entities and individuals on the Evaluation Team shall not be held responsible.

1.3.3.1 CONFIDENTIAL INFORMATION SHARING AUTHORIZATION FOR ISO-NE

ISO-NE will be requested to provide high level advisory information to the Evaluation Team concerning proposals as part of the proposal evaluation process. By participating in this RFP bidders agree that the ISO may release information, related to the RFP and that may otherwise be considered confidential under the ISO New England Information Policy, to the Evaluation Team.

1.3.4 APPENDICES

All bidders shall sign and submit attached Appendices D, E and F with their bids. **A proposal will be considered incomplete unless all required Appendices are signed and submitted with the proposal.**

1.4 PROCUREMENT PROCESS

The procurement process is designed to comply with each of the Procuring States' Procurement Statutes and clean energy goals. Consequently, this RFP contemplates an iterative process by which the parties from each Procuring State will first review and rank bids taking into account the requirements of their respective state. These state-specific processes and the related legal requirements are described in the Procurement Statutes which are described in Appendix H. Then the parties from all three of the Procuring States will collaborate to determine whether together they can create a portfolio of projects that would achieve cost-effective clean energy goals while still complying with each state's applicable legal requirements.

1.5 BIDDER CERTIFICATION

An authorized officer or other authorized representative of a bidder is required to certify by its submission of its proposal that:

1. the bidder has reviewed this RFP and has investigated and informed itself with respect to all matters pertinent to this RFP and its proposal;

Draft 02/25/15

2. the bidder's proposal is submitted in compliance with all applicable federal, state and local laws and regulations, including antitrust and anti-corruption laws; and
3. the bidder is bidding independently and has no knowledge of the substance of any proposal being submitted by another party in response to this RFP other than: (1) a response submitted by an affiliate of bidder, which must be disclosed in writing to the Evaluation Team with each affiliated bidder's proposal; or (2) a submission of multiple bids for the same Qualified Energy as discussed in Section 1.2.

Violation of any of the above requirements will disqualify the bidder from the solicitation described in this RFP and may be reported to the appropriate government authorities. See the required Certification in Appendix D. The Evaluation Team may investigate suspected violations of these requirements.

1.6 CHANGES OR CANCELLATIONS

The terms and conditions of this RFP may, at any time, be changed, postponed, withdrawn and/or canceled, including any requirement, term or condition of this RFP, any and all of which shall be without any liability to any members of the Soliciting Parties or the Evaluation Team. Any changes to or cancellations of this RFP will be posted on www.cleanenergyRFP.com.

1.7 NON-REFUNDABLE BID FEES

Each Project shall be required to pay a non-refundable bid fee which will be used to offset the cost of the quantitative evaluation of bids performed by a third party consultant experienced in the evaluation of such proposals. The minimum bid fee will be \$7,500 for a project with a nameplate capacity of 20 MW. The bid fee will increase by \$375 for each MW above 20 MW to a maximum bid fee of \$100,000. The bid fee includes one pricing offer. Each additional pricing offer will cost an additional \$10,000 for projects of less than 100mw nameplate capacity and \$25,000 for all others. A check for the bid fee should be made out payable to _____ and mailed to _____ postmarked no later than the final date for submission of bids. No applications will be reviewed without a bid fee. Submission of a bid fee does not obligate the Selection Team to select a project.

If the total amount of the bid fees collected is not adequate to cover the cost of the quantitative evaluation, the EDCs may either seek recovery of that shortfall through retail rates or terminate the evaluation and selection process under this RFP.

II. EVALUATION AND SELECTION PROCESS

2.1 OVERVIEW

As is discussed above, the Soliciting Parties will receive all proposals CD ROM. Per the Procurement Statutes, the procurement process is slightly different for each state. Appendix H

Draft 02/25/15

details the statutory basis for the process for each state, including which entities within the states have responsibility for certain actions and decisions to complete the procurement process. The essential purpose of this three-state procurement is for parties in each of the states to identify any projects that offer the potential for the Procuring States to meet their clean energy goals in a cost-effective manner that brings additional regional benefits. Parties in the three states have decided to act jointly to open the possibility of procuring large-scale projects that no state could procure if it acted unilaterally. Although the three-state process opens up the possibility of large-scale projects, parties in each state will select the project(s) that satisfy(ies) its Procurement Statute and is/are most beneficial to its customers. Consequently, evaluation and selection will involve an iterative process by which the parties from each state will first review and rank bids based on the requirements of their respective state. Then the parties from all three of the Procuring States will collaborate to determine whether together they can create a portfolio of projects that would reduce the cost to customers in each of the three states and still comply with each state's requirements and clean energy goals.

Once proposals are received, the proposals will be subject to a review, evaluation and selection process. The first stage ("Stage One") consists of a review of whether the proposals satisfy specified eligibility, threshold and other minimum requirements set forth in Section 2.2 of this RFP. The second stage ("Stage Two") consists of quantitative and qualitative evaluation of proposals that pass the Stage One review, as described in Section 2.3 of this RFP.

2.2 STAGE ONE – MINIMUM THRESHOLD REQUIREMENTS

In order for a proposal to qualify for evaluation, it must satisfy the requirements described in this Section. These requirements are designed to ensure that proposed projects comply with the requirements of this RFP, satisfy statutory criteria under the Procurement Statutes, and meet minimum standards demonstrating project viability. Following receipt of the proposals, the proposals will be reviewed to determine whether they satisfy these minimum requirements. Proposals that do not satisfy the Stage One requirements may be disqualified from further review and evaluation. Stage One requirements are set forth in the following section of this RFP.

2.2.1 ELIGIBLE BIDDER

An Eligible Bidder is a bidder who is the owner of an Eligible Facility or the owner of development rights to an Eligible Facility, i.e., the developer of the Eligible Facility.

2.2.2 ELIGIBLE FACILITY

An Eligible Facility must satisfy the requirements outlined in Section 1.2.4.

2.2.3 ELIGIBLE BIDS

Each bid must satisfy this Section 2.2.3.

Draft 02/25/15

2.2.3.1 QUALIFIED CLEAN ENERGY AND/OR RECS VIA PPA

An Eligible Bidder bidding to sell Qualified Clean Energy and/or Tier 1 RECs through a PPA must propose separate prices on a dollar per megawatt-hour (\$/MWh) for Qualified Clean Energy and/or on a dollar per REC (\$/REC) basis for RECs, and a price schedule that conforms with Section 2.2.12. Any RECs sold under a PPA or REC-only contract will only be purchased by the applicable EDC to the extent that those RECs conform to the eligibility criteria for Tier 1 RECs in the RPS program applicable to the EDC's state. If an EDC agrees to purchase both Qualified Clean Energy and/or RECs under a PPA and the RECs cease to conform to the RPS Tier 1 eligibility criteria, the applicable Distribution Company will thereafter only purchase electric energy under that PPA, and the Seller will be permitted to sell those non-conforming RECs to a third party. Any biomass or landfill methane gas facility that has entered into a PPA under Section 6 of Connecticut PA 13-303 shall be exempt from the gradually reduced REC value outlined in Section 5 of Connecticut Public Act 13-303.

The Form PPA for Tier 1 renewable resources (attached as Appendix C-1 to this RFP) contains terms and conditions for the sale of both Qualified Clean Energy and RECs.

2.2.3.1.1 QUALIFIED CLEAN ENERGY FROM A HYDROPOWER RESOURCE (CONNECTICUT ELIGIBILITY REQUIREMENT ONLY)

An Eligible Bidder bidding to sell energy and environmental attributes to the Connecticut EDCs from a Hydropower Resource pursuant to a PPA must propose a price on a dollar per megawatt-hour (\$/MWh) basis for firm Qualified Clean Energy Deliveries. The Eligible Bidder must provide a schedule of Qualified Clean Energy Deliveries with their bid. The Soliciting Parties are seeking firm delivery commitments of Qualified Clean Energy Deliveries particularly during on – peak hours in peak demand periods, i.e. the five peak months of January, February, July, August, and December. On-peak hours are defined as hours ending 0800 to hour ending 2300 on Monday through Friday, excluding North American Electric Reliability Corporation holidays. The economic evaluation will apply extra value to firm Qualified Clean Energy Deliveries during these on – peak hours in the peak demand months. If the specified amount of Qualified Clean Energy is not Delivered during the specified periods, then the seller will pay damages equal to the amount of Qualified Clean Energy Delivery shortfall in any hour multiplied by the difference between the contract price and the day ahead LMP at the delivery point during the that hour. The bidder must disclose in its bid how they propose to certify that the environmental attributes are included with the energy delivered.

The Form PPA for firm Qualified Clean Energy from a Hydropower Resource (attached as Appendix C-2 to this RFP) contains terms and conditions for the sale of firm Qualified Clean Energy.

The Massachusetts EDCs and Narragansett will not procure energy and/or RECs or other environmental attributes from a Hydropower Resource pursuant to a PPA.

Draft 02/25/15**2.2.3.2 QUALIFIED CLEAN ENERGY AND/OR RECS VIA PPA WITH A TRANSMISSION PROJECT UNDER FERC TARIFF**

An Eligible Bidder bidding to develop a Transmission Project as part of a packaged bid with Qualified Clean Energy resources as defined in Section 1.2.2.2 above must submit a bid i.) complying with Section 2.2.3.1 or 2.2.3.1.1 for the energy and/or RECs associated with its bid and ii.) providing for payment for its proposed Transmission Project through a FERC-accepted transmission tariff or rate schedule. The Eligible Bidder must provide detailed information on the proposed tariff or rate schedule, including:

- a. The proposed payment required. If the proposed payment may change during the contract term, then the Eligible Bidder must also provide the method that Transmission Owner shall use to determine the payment for the Transmission Project under the transmission tariff or rate schedule to be filed with FERC. If the proposed payment is a formula rate, the Eligible Bidder must also provide the formula that the transmission owner will file with FERC;
- b. If the proposed payment is based on the Transmission Project's cost of service and may change during the contract term based on changes in the cost of service, a full revenue requirements model submitted as a working Excel spreadsheet with the formulas intact; and
- c. The expected average Qualified Clean Energy Delivery profile across all hours of a year, including the detailed information and explanation necessary to support such an expectation.

An Eligible Bidder shall comply with any requirements concerning submission of a Transmission Project or proposed tariff for review through ISO-NE processes.⁶

2.2.3.3 QUALIFIED CLEAN ENERGY VIA TRANSMISSION PROJECT UNDER A PERFORMANCE-BASED TARIFF CONTAINING A QUALIFIED CLEAN ENERGY DELIVERY COMMITMENT

An Eligible Bidder bidding to develop a Transmission Project to Deliver Qualified Clean Energy under a Performance-Based Tariff containing a Qualified Clean Energy Delivery Commitment as defined in Section 1.2.2.3 above, if selected, will recover the costs of its proposed Transmission Project through such a tariff, including the associated rate schedule(s), as filed with and accepted by the FERC. Bids must include the minimum Qualified Clean Energy Delivery Commitments provided as specified MWhs of Qualified Clean Energy Delivered at specified ISO-NE Node(s) during specified periods of time. At a minimum, the bidder shall provide delivery commitments, but may also provide more refined/targeted Delivery commitments (e.g., seasonal and/or seasonal peak hour minimum Delivery requirements) which may provide greater value to potential supporters of the Qualified Clean Energy Delivery Commitment. Bids

⁶ See Sections 2.2.12.2 and 2.2.12.3 regarding cost mitigation associated with cost of service pricing transmission proposals.

Draft 02/25/15

must also include the proposed ownership of associated transmission rights and obligations (e.g., any transmission capacity transfer rights, or any FTR market incremental auction revenue rights) during and after the term of the Qualified Clean Energy Delivery Commitment.

An overview of the Transmission Project under a Performance-Based FERC Tariff containing a Qualified Clean Energy Delivery Commitment approach, including an overview of the regulatory filings and approvals expected to be required, is attached as Appendix G to this RFP.

An Eligible Bidder shall comply with any requirements concerning submission of a Transmission Project or proposed tariff for review through ISO-NE processes.

The Eligible Bidder is required to provide the Qualified Clean Energy Delivery Commitment profile across all hours of a year, including the detailed information and explanation necessary to support that Commitment.

2.2.4 CAPACITY REQUIREMENTS

Eligible Bidders must describe the amount of capacity, and the capacity commitment period, for which they expect the Eligible Facilities in their bids to qualify under the Forward Capacity Auction Qualification (“FCAQ”) requirements set forth in Section III.13.1 of Market Rule 1 of ISO-NE’s Transmission Markets and Services Tariff and how they expect to meet those requirements which include, among others, satisfaction of network capability interconnections standards and the remedying of any issues identified in the overlapping impact analysis. This FCAQ amount must be consistent with the amount that would typically be expected for similar projects of the same nameplate rating and technology type. There will be no payments or price supports from the EDCs for capacity associated with any Qualified Clean Energy procured under this RFP. The Eligible Bidder must disclose in its proposal if the Bidder is committing to bid that qualified capacity amount into the capacity market and if so to make commercially reasonable efforts to clear the forward capacity auction in accordance with Market Rule 1, including the use of the Renewable Technology Resource exemption (Section III.13.1.1.7) if the Eligible Facility would qualify for use of such exemption.

For consideration under Massachusetts Section 83A, bids will also be accepted from Eligible Bidders which may choose to offer Eligible Facilities without a commitment to qualify capacity for participation in the ISO-NE Forward Capacity Market. Such bids should be clear on this issue to ensure proper consideration and evaluation against other bids submitted under Massachusetts Section 83A which may include commitments to qualify capacity in accordance with requirements in the paragraph above.

2.2.5 INTERCONNECTION REQUIREMENTS

There are no specific location requirements for Eligible Projects, so long as each bid satisfies the Delivery requirements described in this RFP. In addition, Hydropower Resources which seek to qualify for consideration under Section 4 of Connecticut Public Act 13-303 must meet the location requirements of that statute. The Delivery of Qualified Clean Energy from Eligible

Draft 02/25/15

Facilities must occur throughout the term of the PPA or Qualified Clean Energy Delivery Commitment. It is the responsibility of the Eligible Bidder to satisfy the Delivery requirement. The Delivery point must be located so that EDCs are not responsible for wheeling charges to move energy to the ISO-NE Pool Transmission Facilities. The EDCs will not be responsible for any costs associated with Delivery other than the payment of the bid prices. Similarly, EDCs will not be responsible for any scheduling associated with Delivery.

The Eligible Bidder will be responsible for all costs associated with interconnecting its project to the transmission grid and for ensuring that the Qualified Clean Energy is recognized in ISO-NE's settlement system as injected in the ISO-NE energy market at a specified and agreed upon pricing node. At no time will the EDCs assume the responsibility of Lead Market Participant. RECs must be delivered into the EDCs' NEPOOL GIS accounts.

A facility will not be eligible under this RFP if it is net-metered or behind the meter.

The Eligible Facility shall comply with all ISO-NE and FERC interconnection requirements for generation facilities and interregional ties, as applicable.

To meet this threshold requirement, Eligible Bidders must submit a plan that clearly demonstrates how Qualified Clean Energy will be Delivered from or by the proposed Eligible Project to the Delivery point that is a PTF Node as outlined in Section 6 of Appendix B. Additionally, the Eligible bidder must detail the status (and conclusions, as available) of interconnection applications and studies, as further described in Section 6 of Appendix B.

2.2.6 ALLOWABLE CONTRACT TERMS

The contract terms for mandated procurements under the Procurement Statutes in each State are specified in 1.2.5 above. Bidders are encouraged to make their own determination as to contract terms that best fit their individual needs while meeting the state requirements.

Draft 02/25/15

2.2.7 MINIMUM CONTRACT SIZE

Any bid must provide for the Delivery of Qualified Clean Energy and/or associated RECs from Eligible Facilities with a minimum nameplate rating of 20 MW. An Eligible Bidder may offer bids for a portion of the production of Qualified Clean Energy and/or RECs from its proposed Eligible Facility, provided such portion is 20 MW or greater. Similarly, an Eligible Bidder may offer bids for a portion of a Transmission Project provided that such portion provides for the Delivery of Qualified Clean Energy with a minimum nameplate rating of 20 MW or greater. An Eligible Bidder may also offer bids that aggregate capacity among two or more Eligible Facilities, provided that the Eligible Facilities have the same contract purchase rate (if the bid is for Qualified Clean Energy via a PPA), Deliver to the same Delivery point, and that the aggregation allows for the execution of one contract per EDC for all the Eligible Facilities included in the bid (i.e. each EDC will only execute one contract for the bid, with one price and one Delivery point).

2.2.8 GENERATION SITE/ROUTE CONTROL

The Eligible Bidder of a generation project must demonstrate that it has control, or an unconditional right to acquire control, over the generation site included in the bid. In all cases, site control and property rights include all necessary easements or development rights necessary to operate or develop the generation project. In order to be considered to have site control for generation projects, the Eligible Bidder must provide documentation showing one of the following: that they own the site or have a lease with respect to the site on which the proposed project will be located for a term at least as long as the PPA or Qualified Clean Energy Delivery Commitment term; or have an unconditional option agreement to purchase or lease the site for such term. This requirement applies to both new and existing facilities.

Eligible Bidders for a Transmission Project must have property rights for a substantial portion of the property necessary for the Transmission Project, and include a plan for acquiring the rest of the required property rights. If all property rights have not yet been obtained, the Eligible Bidder must describe the authority the Transmission Project developer has to acquire necessary rights of way; the experience of the Transmission Project developer in acquiring rights of way; the status of acquisition of right, title and interest in rights of way, substations and other property or facilities, if any, that are necessary for the proposed project; a detailed explanation of the feasibility of the Transmission Project and potential constraints and challenges; and the means by which the Transmission Project Developer proposes to satisfy state legal or regulatory requirements for siting, constructing, owning and operating the Transmission Project.

2.2.9 TECHNICAL VIABILITY; ABILITY TO FINANCE THE PROPOSED ELIGIBLE PROJECT

The Eligible Bidder must demonstrate that the technology it proposes to use is technically viable. Technical viability may be demonstrated by showing that the technology is commercially available and has been used successfully as outlined in Section 8 of Appendix B.

Draft 02/25/15

The Eligible Bidder must demonstrate the financial viability of the proposed Eligible Project, including the funding of development costs and the required development period security and the ability to acquire the required equipment in the time frame proposed (see section 5 of Appendix B).

2.2.10 EXPERIENCE

The Eligible Bidder must demonstrate that it has a sufficient amount of relevant experience and expertise, as applicable, to successfully develop, finance, construct, and operate and maintain its proposed Eligible Project. Development, financing and construction experience can be established by demonstrating that key member(s) of the bidder's development team have undertaken project management responsibilities, including:

- a. Successful development and construction of a similar type of project; or
- b. Successful development and construction one or more projects of similar size or complexity or requiring similar skill sets; and
- c. Experience successfully financing power generation or transmission projects (or demonstrating the financial means to finance the Eligible Project on the Eligible Bidder's, Eligible Project developer's or Eligible Project owner's balance sheet).

Operations and maintenance experience should be addressed as outlined in Section 9 of Appendix B.

2.2.11 PROPOSAL CERTIFICATION

Eligible Bidders are required to sign the Proposal Certification Form in the CPPD verifying that the price(s), terms and conditions of the proposal are valid for at least 270 days following submission. Only an officer or other duly authorized representative of the Eligible Bidder may sign the Proposal Certification Form.

2.2.12 ALLOWABLE FORMS OF PRICING

2.2.12.1 PRICING FOR QUALIFIED CLEAN ENERGY AND/OR RECS VIA PPA

Proposals for Qualified Clean Energy, Qualified Clean Energy and Tier 1RECs, or Tier 1 RECs only, will be accepted **only if** they conform to the following requirements:

- a. The proposal must provide fixed prices (in \$/MWh and/or \$/REC) annually for the term of the contract, and prices may be the same each year or increase by a defined escalation rate over time. Separate Qualified Clean Energy prices must be provided for on- and off-peak periods.
- b. Prices must be paid on a \$/MWh or \$/REC basis for actual production following Delivery. No fixed payments, pre-payments or fees shall be paid.

Draft 02/25/15

- c. Proposals including Qualified Clean Energy and RECs, or a portion thereof, must provide separate prices for such Qualified Clean Energy and RECs. For such proposals, if an EDC agrees to purchase both Qualifying Clean Energy and RECs under a PPA and the RECs cease to conform to the RPS Class 1 eligibility criteria, the applicable Distribution Company will thereafter only purchase electric energy under that PPA, and the Seller will be permitted to sell those non-conforming RECs to a third party.⁷ All else being equal, a preference will be given to an allocation of the price between Qualified Clean Energy and RECs that most closely aligns with the relative market value of those products. Any biomass or landfill methane gas facility that has entered into a PPA under Section 6 of Connecticut PA 13-303 shall be exempt from the gradually reduced REC value outlined in Section 5 of Connecticut Public Act 13-303.
- d. Proposals for RECs only must be priced in \$/REC. For such proposals, if an EDC agrees to purchase RECs under a REC contract and the RECs cease to conform to the RPS Tier 1 eligibility criteria, the contract will be terminated.
- e. For the National Grid Mass EDCs, payment for RECs will be made following Delivery of the Qualified Clean Energy so long as the National Grid Mass EDC and the seller enter an irrevocable Forward Certificate Transfer of those RECs in the NEPOOL GIS. For all other EDCs, payment for RECs shall be made after receipt of the RECs in the EDC's NEPOOL GIS Account.

Proposed prices 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 tax treatment or government grant or subsidy.

An Eligible Bidder may submit up to five pricing proposals for the sale of Qualified Clean Energy and/or RECs from an Eligible Facility. The bidder may submit proposals that include more than one contract term (*e.g.*, 15 and/or 20 years), or different products (Qualified Clean Energy; Qualified Clean Energy and RECs; RECs only); or different quantities of products.

Bidders should indicate whether any of their Eligible Facility or contract size (MW) is scalable based upon the pricing submitted in the CPPD.

The Eligible Bidder must identify its proposed Delivery point for Qualified Clean Energy.

Under the terms of the PPA, in the event that the LMP for the Qualified Clean Energy at Delivery point is less than \$0.00 per MWh in any hour, then seller shall credit to buyer, on the appropriate monthly invoice, an amount equal to the product of (i) such Qualified Clean Energy Delivered in each such hour and (ii) the absolute value of the hourly LMP at that Delivery point.

⁷ For PPAs executed by, Massachusetts Electric Company and Nantucket Electric Company (the "National Grid Mass EDCs"), the bidders should propose an "Adjusted Price" that would be paid under a PPA for Qualified Clean Energy and RECs if the RECs cease to be Tier 1 RECs, with those non-conforming RECs no longer being purchased by the applicable EDC.

Draft 02/25/15

These forms of pricing are conforming under this RFP. The EDCs may consider other forms of pricing as an alternative as long as the Bidder submits a proposal for the project with conforming pricing as described above. Alternative pricing may be considered subject to the following conditions:

- a. Any index used in a pricing formula must be energy related; and
- b. There must be a price cap for each year under the proposed contract.

The EDCs are under no obligation to consider or accept any form of alternative pricing.

2.2.12.2 PRICING FOR TRANSMISSION PROJECTS AS PART OF A PACKAGE BID WITH QUALIFIED CLEAN ENERGY AND/OR RECS VIA PPA

Proposals that include a Transmission Project packaged with a PPA for Qualified Clean Energy and/or RECs should have two components. Pricing for the PPA should conform to the requirements of Section 2.2.12.1 above. Pricing for the Transmission Project should be proposed separately under a FERC-filed tariff or rate schedule, and if that pricing is based on the Transmission Project's cost of service and may change during the contract term based on changes in the cost of service, a full revenue requirements model submitted as a working Excel spreadsheet. Fixed prices are encouraged for Transmission Projects. Cost of service is allowed for transmission pricing proposals, but proposals including cost containment features such as fixed price components, cost overrun restrictions, or other cost bandwidth provisions to limit ratepayer risk will be viewed more favorably in determining overall net benefits⁸.

2.2.12.3 PRICING FOR TRANSMISSION PROJECTS UNDER A PERFORMANCE-BASED TARIFF CONTAINING A QUALIFIED CLEAN ENERGY DELIVERY COMMITMENT

Pricing for the Transmission Project under a Performance-Based Tariff Containing a Qualified Clean Energy Delivery Commitment must provide for payments to be reduced for failure to meet the Qualified Clean Energy Delivery Commitment. Bidders may, but are not required to, base that pricing on the Transmission Project's cost of service, which may or may not change during the contract term based on changes in the cost of service. In that case, a full revenue requirements model should be submitted as a working Excel spreadsheet. Fixed prices are encouraged for Transmission Projects. Cost of service is allowed for transmission pricing proposals, but proposals including cost containment features such as fixed price components, cost overrun restrictions, or other cost bandwidth provisions to limit ratepayer risk will be viewed more favorably in determining overall net benefits⁹.

⁸ The Connecticut Selection Team is unlikely to select a Transmission Project without significant cost containment features for cost-of-service rate treatment.

⁹ See above

Draft 02/25/15

2.2.13 FACILITATE FINANCING OF RENEWABLE ENERGY GENERATION (MASSACHUSETTS SECTION 83A ONLY)

An Eligible Bidder that seeks to qualify for consideration under Massachusetts Section 83A must demonstrate that its proposal advances the goal of Section 83A for the selection of cost-effective long-term contracts that facilitate the financing of renewable energy generation. The Eligible Bidder should specify how a contract resulting from this RFP process would either permit it to finance a project that would otherwise not be financeable or assist it in obtaining financing of its project.

2.2.14 PROPOSAL COMPLETENESS: ELIGIBLE BIDDER RESPONSE FORMS AND THE FORM PPA

Eligible Bidders must follow the instructions provided in Appendix B and provide complete responses. Eligible Bidders are also required to fill out Appendices D, E, and F. Eligible Bidders are required to provide the information specified in each section of the CPPD. If any of the information requested is inconsistent with the type of technology or product proposed, the Eligible Bidder should include "N/A" and describe the basis for this determination. If an Eligible Bidder does not have the information requested in the bid forms and cannot obtain access to the information prior to the bid submittal due date, the Eligible Bidder should provide an appropriate explanation. If Eligible Projects are not in the ISO-NE interconnection queue they may be asked to work with the ISO to obtain a queue position.

Appendices C-1 and C-2 are the form of the PPAs ("Form PPAs"). Eligible Bidders must include a marked version showing any proposed changes to the Form PPAs with their bid, and it is assumed that Eligible Bidders would be willing to execute the marked-up PPA included in their bids. **Eligible Bidders are discouraged from proposing material changes to the Form PPAs.**

2.2.15 BID FEES

Each applicant must submit the bid fee for each proposed Eligible Project as described in Section 1.7.

2.3 STAGE TWO – QUANTITATIVE AND QUALITATIVE ANALYSIS

Proposals that meet the requirements of the Stage One review will be subject to a quantitative and qualitative analysis in Stage Two of the evaluation process. The results of the quantitative and qualitative analysis will be a relative ranking and scoring of all proposals. Stage 2 scoring will be based on a 100-point scale. Proposals will be scored with up to 80 points for quantitative factors. The remaining 20 points will be scored for qualitative factors for purposes of conducting the Stage Two evaluation. Following the total quantitative and qualitative rankings conducted in this second evaluation stage, a further review of the bids may be conducted and a short list selected.

Since each state may have different quantitative and qualitative scores, there may be different rank orders between states.

Draft 02/25/15

2.3.1 EVALUATION USING QUANTITATIVE EVALUATION CRITERIA

The quantitative evaluation will vary based on whether a bid includes a PPA or not. For bids including a PPA, the bid will be evaluated based on a comparison of the purchase price of any Qualified Clean Energy and/or RECs under a PPA (including any associated transmission costs under a tariff or rate schedule) to their projected market prices and a comparison to other bids received. The quantitative evaluation will use a multi-year net present value analysis to preliminarily rank all projects. For purposes of computing the net present value, a discount factor of 7% will be used. Those projects that are ranked the highest in the preliminary ranking that in total represent a minimum of 3 times minimum statutory requirements will be subject to a further review. If we get less, we will rank them all. This second step will be an evaluation of the indirect benefits of proposals using a production cost simulation model. A base case for the production cost model and a REC forecast will be developed for the procurement period of Eligible Products. The production cost model will be run with and without proposals to determine the benefits in terms of expected impact on energy prices at locations determined by the Soliciting Parties and a comparison to other bids received. At the Soliciting Parties option, the evaluation may use representative plants to estimate the indirect benefits of projects that are bid. The reasonableness of the Qualifying Clean Energy production profile provided by the Eligible Bidder will be evaluated and may be adjusted if it appears to be inconsistent with other information provided by the Eligible Bidder or known by the EDCs or CT DEEP.

For bids for Qualified Clean Energy via Transmission Project under a Performance-Based Tariff Containing a Qualified Clean Energy Delivery Commitment, the evaluation of the overall cost-effectiveness of the Transmission Projected in enabling the applicable parties to meet their states' clean energy goals will included additional benefits of the proposal, such as increased competition among supply in the energy and capacity markets.

The net benefits of the Eligible Project will include:

- a. The direct benefits of the purchase price of both Qualified Clean Energy and RECs compared to their projected market prices;
- b. Benefits in customer energy cost savings

2.3.2 QUALITATIVE EVALUATION

The qualitative evaluation will consist of the factors mandated by the Procurement Statutes as well as factors deemed important by the Selection Team, identified in Section 2.3.2.1 below. Parties in individual states may weight these factors differently, or may not include individual factors in their evaluation, based on the individual state statutes and/or preferences of the different entities. The purpose of such criteria is to permit evaluation of state specific factors, including reliability, economic and environmental impacts.

2.3.2.1 FACTORS TO BE ASSESSED IN QUALITATIVE EVALUATION

Draft 02/25/15

The qualitative factors that will be assessed are summarized as follows:

- Eligible Project Viability:
 - Eligible Project team financing experience
 - Demonstration of Project Financial Viability
 - Need for and likelihood of subsidies
 - Completeness and credibility of detailed critical path schedule
 - Credibility of any fuel resource plans or energy resource plans
 - Reliability of proposed technology
 - Commercial access to proposed technology
 - Viability of any proposed Transmission Project plans
- Eligible Project feasibility, including:
 - Experience and capability of the Eligible Bidder and Eligible Project team including, where applicable, any associated transmission development team, in project development, operations and maintenance, and experience in the ISO-NE market
 - Status of permits and credibility of plan to obtain approvals
 - Demonstrated progress in the interconnection process
 - Identification of required permits and approvals
 - Extent to which site or route control has been achieved, including acquisition of necessary easements or rights-of-way
 - Community relations plan
 - Conformance with FERC's applicable regulatory requirements
- Eligible Project development status and operational viability
 - Ability to meet scheduled construction start date and commercial operation date
 - Progress in interconnection process
- Other qualitative factors that may be considered by the Selection Team are summarized as follows:

Draft 02/25/15

- Reductions in greenhouse gas emissions
- Consistency with the policy goals outlined in the Connecticut Comprehensive Energy Strategy, including:
 - Base load capacity
 - Peak load shaving
 - Promotion of wind, solar and other renewable and low carbon energy technologies
- Economic development benefits
- Installed Capacity and Local sourcing requirements
- Exceptions to Form PPAs
 - The extent to which bidder accepts provisions of the Form PPAs
 - The extent to which bidder proposes exceptions that are adverse to the EDCs

The quantitative evaluation may be conducted before the qualitative evaluation, and the Selection Team may elect not to conduct the qualitative evaluation for any proposal that could not be successful based on the difference between its quantitative value and the quantitative value of competing proposals. It is expected that not all proposals will pass to Stage Two and that not all proposals evaluated in Stage Two will be offered the opportunity to negotiate a contract.

2.4 CONTRACTING/TARIFF PROCESS

2.4.1 PPAs

Eligible Bidders will be notified whether they have been selected to enter into a PPA with one or more of the EDCs.

The Eligible Bidders will enter into separate contracts with one or more EDCs at the discretion of the EDCs. If an Eligible Facility is selected by both Massachusetts and Connecticut, the amount contracted for will be divided equally between the states up to their statutory limits. The EDCs within the states will then contract for their load ratio share. The Selection Team will coordinate the finalization of contracts between the selected Eligible Bidders and the EDCs. Contract finalization between the selected Eligible Bidders and the EDCs may occur on a rolling basis throughout the 270-day period during which the proposals are valid.

2.4.2 TRANSMISSION TARIFFS

Draft 02/25/15

Selected Eligible Bidders whose projects include Transmission Projects will file any necessary tariffs with the FERC pursuant to Section 205 of the Federal Power Act. Any allocation of the transmission projects between the EDCs will be based upon their load ratio percentage.

2.4.3 SECURITY

Eligible Bidders who are selected will be required to post “Development Period Security” and “Operating Period Security.”

The required levels of Development Period Security for Eligible Facilities are the Per kWh per hour Development Period Security Amount multiplied by the Contract Maximum Amount (as defined in the Form PPA) in kWh per hour for the Eligible Facility. The per kWh per hour Development Period Security Amount is \$20. Fifty percent (50%) of the Development Period Security must be provided at the time of contract execution. The remaining fifty percent (50%) of the Development Period Security must be provided upon regulatory approval of the contract. Development Period Security will be promptly returned if the applicable regulatory agency does not approve the PPA. Once an Eligible Facility achieves commercial operation, the amount of required security (“Operating Period Security”) will be the same as the required amount of Development Period Security.

The required levels of Development Period Security for Transmission Projects under a performance based tariff (no PPA) are \$10 per kW. Fifty percent (50%) of the Development Period Security must be provided within five business days after the Eligible Bidder has been notified that it has been selected to file a tariff or rate schedule with the FERC. The remaining fifty percent (50%) of the Development Period Security must be provided upon FERC acceptance of the tariff. Development Period Security will be promptly returned if agreement is not reached on the tariff or if the FERC does not accept the tariff. Once a Transmission Project is placed in service, the Operating Period Security will be the same as the required amount of Development Period Security.

The required security must be in the form of a cash deposit or a letter of credit from a U.S. commercial bank or the U.S. branch of a foreign bank, in either case having (x) assets on its most recent balance sheet of at least \$10 billion and (y) a credit rating of at least A2/A. More detail on the security requirements are included in the Form PPA.

Draft 02/25/15

2.5 REGULATORY APPROVAL

The EDCs' obligations to procure any Qualified Clean Energy selected are conditioned upon approval of the contracts and associated cost recovery by the appropriate state regulatory authority and any other relevant regulatory authorities. Once the parties have executed a PPA, the EDCs shall submit the executed PPA to the applicable state regulatory authority for approval. In the case of federal transmission rates, such charges are subject to the review and approval of the FERC pursuant to the Federal Power Act. Any Eligible Bidder requiring regulatory approval by a certain deadline must state that deadline in its proposal, and that deadline will be considered in assessing the overall viability of the Eligible Project.

2.5.1 CONNECTICUT REGULATORY APPROVAL

Under Section 6 of Connecticut Public Act 13-303, any such agreement shall be subject to review and approval by PURA, which review shall be completed no later than thirty days after the date on which such agreement is filed with PURA. Under Section 7 of Connecticut Public Act 13-303, any such agreement shall be subject to review and approval by PURA, which review shall include a public hearing and be completed no later than sixty days after the date on which such agreement is filed with PURA. See the Form PPA for additional information.

2.5.2 MASSACHUSETTS REGULATORY APPROVAL

Under Section 83A in Massachusetts, the obligations of both the Massachusetts EDCs and the successful bidders to perform under each contract shall not become effective or binding until receipt of the approval of the Massachusetts Department of Public Utilities ("MDPU") as described in each contract. After a Massachusetts EDC and successful bidder have executed a contract that satisfies the requirements of Section 83A as a result of this RFP process, the Massachusetts EDC intends to submit the proposed contract to the MDPU for review and approval within 30 days of execution, unless circumstances require a longer period to prepare the MDPU filing materials.

Section 83A, as implemented by the MDPU, establishes several requirements relating to the MDPU's review and approval. In addition, the MDPU has promulgated regulations at 220 CMR 21.00 et seq., setting forth the criteria for its review pursuant to the requirements of Section 83A. When evaluating a proposed contract under Section 83A, the MDPU will consider the recommendations of the Massachusetts Office of the Attorney General ("MA AGO"), which must be submitted to the MDPU within 45 days of the filing of the proposed contract.

Once the MDPU issues a decision approving a Massachusetts EDC's request for approval of an executed contract under Section 83A, the Massachusetts EDC shall have five (5) business days after the appeal period has elapsed and after any motions or appeals are resolved to review the form and substance of the MDPU's approval. Each Massachusetts EDC shall have the opportunity to terminate the contract if the MDPU's approval contains terms or conditions that are deemed to be unsatisfactory to the Massachusetts EDC, in its sole discretion. Terms or conditions that may be unsatisfactory include but are not limited to denial of annual

Draft 02/25/15

remuneration equal to 2.75 percent of the annual payments under the contract, which is required by Section 83A and is intended to compensate the Massachusetts EDC for accepting the financial obligation of the long-term contract at issue.

2.5.3 RHODE ISLAND REGULATORY APPROVAL

Pursuant to Chapter 39-31 in Rhode Island, once Narragansett has executed a contract as a result of this RFP process, the proposed contract will be submitted to the RIPUC for review and approval within thirty (30) days of execution, unless circumstances require a longer period to prepare the filing materials. Once submitted, the RIPUC shall accept public comments on any contracts filed by Narragansett pursuant to Chapter 39-31 for a period no less than thirty (30) days, including advisory opinions by other Rhode Island state agencies. The RIPUC shall hold evidentiary hearings and public hearings to review any contract filed pursuant to Chapter 39-31, and issue a written order approving or rejecting the contract within one hundred twenty (120) days of the filing. The RIPUC will approve the contract if it determines that: (1) the contract is commercially reasonable; (2) the requirements for the annual solicitation have been met; (3) the contract is consistent with the region's greenhouse gas reduction targets; and (4) the contract is consistent with the purposes of Chapter 39-31. If the RIPUC rejects the contract, it may advise the parties of the reason for rejection of the contract and provide an option for the parties to attempt to address the reasons for rejection in a revised contract within a specified period not to exceed ninety (90) days.

All contracts subject to Chapter 39-31 shall contain provisions which allow Narragansett to terminate the contract, without penalty, after three (3) years of execution should Narragansett or the RIPUC determine that material progress on the project is not being made, as determined by evaluating the success in meeting contract milestones. Narragansett is not obligated to execute any contract on terms which it reasonably believes to be commercially unreasonable. If there is a dispute about whether terms are commercially unreasonable, the RIPUC shall make the final determination after an evidentiary hearing. No contract will be effective unless and until it is approved by the RIPUC.

Once the RIPUC issues a decision approving a request for approval of an executed contract under Chapter 39-31, the Narragansett shall have five (5) business days after the appeal period has elapsed and after any motions or appeals are resolved to review the form and substance of the RIPUC's approval. Narragansett shall have the opportunity to terminate the contract if the RIPUC's approval contains terms or conditions that are deemed to be unsatisfactory to the Narragansett, in its sole discretion.

2.5.4 FERC APPROVAL

Any tariff or rate schedule agreed upon by an Eligible Bidder and the applicable EDCs will be filed with the FERC under Section 205 of the Federal Power Act. The FERC must accept the filing before the tariff or rate schedule can become effective.

Draft 02/25/15**III. INSTRUCTIONS TO BIDDERS****3.1 SCHEDULE**

The proposed schedule for the bidding process is set forth below. The Soliciting Parties reserve the right to revise the schedule as necessary. **Any changes or revisions to the schedule will be posted on the Soliciting Parties' website www.cleanenergyrfp.com.**

Release of the Draft RFP	February 25
Public Comment Period	February 25 – March 27
Release RFP to Bidders	Day T
Bidder Conference	T + 14 days
Deadline for the submission of written questions	T + 45 days
Responses to Q&A submitted posted	T + 60 days
Due Date for Proposal Submissions	T + 75 days
Selection of Bidders	T + 165 – 255 days
EDCs Execute Contacts	T + 225 – 315 days
Submit Contracts for Regulatory Approval	T + 255 – 345 days
Regulatory Approval	2016

3.2 QUESTIONS FROM BIDDERS AND NOTICE OF INTENT TO BID

Prospective bidders are encouraged to submit questions about this RFP to the Soliciting Parties on or before the deadline for submission of questions listed in the schedule. The Soliciting Parties will answer questions submitted by that deadline by posting such answers on its website [www.clean energyRFP.com](http://www.cleanenergyRFP.com).

Prospective bidders are encouraged to submit a Notice of Intent to Bid form, which is attached as Appendix A to this RFP. The Soliciting Parties will endeavor to email updates regarding this RFP to prospective bidders who submit a Notice of Intent to Bid. This does not relieve bidders of their responsibility to check the website for news and updates. Prospective bidders who submit a Notice of Intent to Bid are not obligated to submit a proposal, and proposals will be accepted from Eligible Bidders who do not submit a Notice of Intent to Bid. Any Notices of

Draft 02/25/15

Intent to Bid submitted will be made public to encourage potential bidders to match Qualified Clean Energy projects with transmission in combination bids.

3.3 PREPARATION OF PROPOSALS

Each Eligible Bidder shall have sole responsibility for carefully reviewing this RFP and for thoroughly investigating and informing itself with respect to all matters pertinent to this RFP and its proposal, including pertinent ISO-NE tariffs, Market Rules and other information. Eligible Bidders should rely only on information provided in this RFP when preparing their proposals. Each Eligible Bidder shall be solely responsible for and shall bear all of its costs incurred in the preparation of its proposal and/or its participation in this RFP.

3.4 ORGANIZATION OF THE PROPOSAL

Eligible Bidders are required to organize their proposal **consistent with the Submission Instructions in Appendix B**. The organization and contents of the proposal should be organized as follows:

1. Certification, Project and Pricing Data (CPPD form)
2. Executive Summary
3. Bid Pricing
4. Operational Parameters
5. Energy Resource Plan
6. Financial/Legal
7. Siting and Interconnection
8. Environmental Assessment, Permit Acquisition Plan and Tier 1 Certification
9. Engineering and Technology; Commercial Access to Equipment Operation and Maintenance
10. Project Schedule
11. Project Management/Experience
12. Emissions
13. Economic Development
14. Additional Information Required for Transmission Projects

Draft 02/25/15

15. Exceptions to Form PPA

The Eligible Bidder must also provide the information specified in the following Appendices:

Appendix D – Certification

Appendix E – Limited Consent to Disclosure of Confidential Business Information

Appendix F – Consent to Submittal to state regulatory authorities

3.5. UPDATES TO PROPOSAL

After proposal submissions, an Eligible Bidder may provide new information, e.g., the status of obtaining permits and financing, to the Soliciting Parties about the Eligible Project that was not available at the time of proposal submission. These updates are for informational purposes only and will not be treated as a change or revision to the terms of the bidder's proposal by the Soliciting Parties.

3.6 REQUESTS FOR ADDITIONAL INFORMATION

Following the submission of proposals, the Soliciting Parties, EDCs or CT DEEP may request clarification and additional information from Eligible bidders at any time during the evaluation process. Eligible Bidders that do not respond promptly to such information requests may be eliminated from further consideration.

Draft 2/25/15

APPENDIX A

NOTICE OF INTENT TO BID

1. Company Name: _____
2. Project Name: _____
3. Contact Person Information:

Name:	
Title/Position:	
Mailing Address:	
Telephone Number:	
Fax Number:	
E-mail Address	

4. Project Size (MW/KV): _____
5. Project Location: _____

6. Estimated Commencement of Construction Date (Month-Year): _____
Estimated Commercial Operation Date (Month-Year): _____
7. Authorized Signature: _____
Title: _____ Date: _____

Bidders should send the Notice of Intent to Bid Form by to the Soliciting Parties to cleanenergyRFP@gmail.com

Draft 2/25/15

APPENDIX B

Proposal Submission Instructions

All proposals shall be submitted in accordance with Section 1.3 of the RFP. Proposals should be organized into the following Sections:

1. Certification, Project and Pricing Data (CPPD form)
2. Executive Summary of the Proposal
3. Operational Parameters
4. Energy Resource Plan
5. Financial/Legal
6. Siting, Interconnection, and Deliverability
7. Environmental Assessment, Permit Acquisition Plan and Tier 1 Certification
8. Engineering and Technology, Commercial Access to Equipment,
9. Operation and Maintenance
10. Project Schedule
11. Project Management/Experience
12. Emissions
13. Contribution to Employment and Economic Development
14. Additional Information Required for Transmission Projects
15. Exceptions to Model PPA

Appendix D – Certification

Appendix E – Limited Consent to Disclosure of Confidential Business Information

Appendix F – Consent to Submittal to PURA

Directions for each section are outlined below. Each section must be filled out in its entirety with all of the supporting information requested. If any section is not applicable it should be so stated with a full explanation.

Draft 2/25/15

1. CERTIFICATION, PROJECT AND PRICING DATA

The Certification, Project and Pricing Data (“CPPD”) document is a Microsoft Excel workbook that is provided on the Department’s website. The CPPD must be submitted as a working Microsoft Excel file. Parties may also submit a signed PDF in addition to the working Microsoft Excel file. The CPPD document has six parts, listed below. If the bidder provides information in other sections of its proposal that conflicts with the information provided in the CPPD, the CPPD shall be considered to contain the governing and binding information for both the evaluation and any resulting contract offer.¹⁰ The bidder may provide up to five different offers on terms and/or pricing (e.g., 10 year and 15 year) for the same facility, which should be submitted on a single CPPD. All bids must include the appropriate bid fees as described in the body of the RFP in section 1.7 or the bid will be considered not eligible for consideration.

Part I Guidelines and Instructions for completing the spreadsheet

Part II Proposal Certification Form

Part III Bid and Contact Information

Information includes term, pricing type and contact information.

Part IV Project Information

Information includes actual or expected Commercial Operation Date, size, output, dates, technology, location, delivery point, capacity factor, percentage entitlement, contract maximum amount and other technical information.

Part V Pricing Information

Information includes annual peak and off-peak contract energy by contract year and corresponding prices, and, where applicable, RECs by contract year and corresponding prices, and alternative pricing. Information for up to five offers is input on five separate worksheets in the CPPD.

Part VI Operational Information

Information regarding projected deliverables for Eligible Facilities.

¹⁰ One exception is that if operational information in Part VI of the CPPD conflicts with information elsewhere in the proposal or information otherwise known the energy production information in Part VI of the CPPD may be modified in conducting the price evaluation.

Draft 2/25/15

2. EXECUTIVE SUMMARY OF THE PROPOSAL (INCLUDING THE BASE PROPOSAL AND ANY ALTERNATIVE PROPOSALS)

The bidder is required to provide an executive summary of the project proposal that includes a complete description of the proposed project, the proposed contract term and pricing schedule, and other factors the bidder deems to be important.

3. OPERATIONAL PARAMETERS

- 3.1 Maintenance Outage Requirements – Specify partial and complete planned outage requirements in weeks or days. Also, list the number of months required for the cycle to repeat (e.g., list time interval of minor and major overhauls, and the duration of overhauls).
- 3.2 Operating Constraints – Specify all the expected operating constraints and operational restrictions for the project (i.e., limits on the number of hours a unit may be operated per year or unit of time).
- 3.3 Reliability – Describe how the proposal would provide enhanced electricity reliability within the States of Connecticut, Massachusetts and Rhode Island, including its impact on transmission constraints.
- 3.4 Development Stage of Facility – Describe whether the project is in operation, in construction or in the development phase.
 - (a) If in operation, when did the project achieve initial operation and commercial operation?
 - (b) If in construction, when did construction commence and what are the projected dates for initial testing commercial operation.
 - (c) If the project is partly in one development stage and partly in another, please explain in detail the status of the project.

If the proposed project is an expansion, repowering, environmental investment or other modification of an existing Facility, please describe the project in detail, the total cost and cost on a \$/kW basis specifying the existing project and the proposed expansion, repowering or other modification. Indicate any incremental or decremental capacity.

4. ENERGY RESOURCE PLAN

For Eligible Facilities, the bidder is required to provide an energy resource or fuel supply plan for its proposed project, including supporting documentation. The fuel supply/energy resource profile information should be consistent with the type of technology/resource option proposed and the term proposed. The information requested is organized according to the type of project or energy resource. Bidders should respond only to relevant questions.

Draft 2/25/15

Wind Energy Projects

Provide a summary of all collected wind data for the proposed site. Identify when the data was collected and by whom.

Indicate where the data was collected and its proximity to the proposed site. Include an identification of the location and height for the anemometers that were used to arrive at an assessment of the site generation capability.

Provide (a) at least one year of hourly wind resource data, or (b) a wind resource assessment report from a qualified resource assessment firm or meteorologist, or (c) both. Include an analysis of the available wind data which addresses the relationship between wind conditions and electrical output.

Provide a site-adjusted power curve. Each curve should list the elevation, temperature and air density used.

Identify the assumptions for losses in the calculation of projected annual energy production, including each element in the calculation of losses.

Landfill Gas

Provide a gas production forecast for each landfill. Provide a table that shows the annual, monthly and hourly projection of gas flow and energy export from each landfill.

Provide supporting data that illustrates the expected generation from each landfill based on the projected gas production.

Describe any contingencies or constraints that could affect the availability of fuel or the energy resource for the project and any contingency plans for meeting projected generation levels.

If the landfill gas is provided by pipeline, provide information related to gas pipeline delivery, including gas pipeline interconnection points of the landfills delivering the gas into the pipeline system.

Biomass

Describe specifically how the project will conform to: (1) Conn. Gen. Stat. Sec. 16-1(26) and Connecticut Public Act 13-303, *An Act Concerning Connecticut's Clean Energy Goals*, governing resources using biomass fuel, including how your fuel source complies with Conn. Gen. Stat. Sec. 16-1(26); (2) the Massachusetts biomass laws and regulations M.G.L. c. 25A, § 11F, and 225 CMR 14.00; and/or Chapter 39-26 of the Rhode Island General Laws.

Draft 2/25/15

Provide a resource assessment of available biomass fuel for the proposed project and its proximity to the project site.

Provide a plan for obtaining the biomass fuel, including a transportation plan.

Provide any contracts or letters of intent to acquire and transport the biomass fuel.

Demonstrate that projected energy output for the project over the term of the contract is consistent with the energy supply available.

Describe any contingencies or constraints that could affect the availability of fuel or the energy resource for the project and any contingency plans for meeting projected generation levels.

Solar

Provide an assessment of the available solar incidence or resource. Describe any trends in generation capability over time (i.e., annual decline rate of expected output).

Describe the methodology used to generate the projected generation and describe the in-house or consulting expertise used to arrive at the generation estimates.

Hydropower

Describe the project characteristics in terms of water flow (on a monthly basis) and head, and state the assumptions regarding seasonal variations, and a conversion of such flow into kilowatts and kilowatt-hours.

Provide monthly flow duration curves based upon daily stream flow records.

Identify if the project is run-of-river or has storage capability.

Specify if the project is new, or an expansion of an existing facility.

Specify if the energy would qualify as Tier I Renewable Generation. If the project already has Tier I certification, provide or reverence the documentation providing such qualification. If the project does not have Tier I certification, describe the actions proposed to be taken by the bidder to accomplish such qualification.

The bidder must disclose in its bid how they propose to certify that the environmental attributes are included with the energy delivered.

Other

Identification of fuel supply (if applicable).

What is the availability of the fuel supply?

Draft 2/25/15

Does the bidder have any firm commitments from fuel suppliers? If so, please provide a copy of any agreements with confidential information redacted if necessary.

5. FINANCIAL/LEGAL

Bidders are required to demonstrate the financial viability of their proposed project. Bidders should provide the following information:

- 5.1 Provide a description of the business entity structure of the bidder's organization from a financial and legal perspective, including any general and limited partners, officers, directors, managers, members and shareholders, involvement of any subsidiaries supporting the project, and the providers of equity and debt during project development. Provide an organization chart showing the relationship between the equity participants and an explanation of the relationships. For jointly owned facilities, identify all owners and their respective interests, and document the Bidder's right to submit a binding proposal.
- 5.2 For projects that include new facilities or capital investment, provide a description of the financing plan for the project, including construction and term financing. The financing plan should address the following:
 - i. Who will finance the project and how it will be financed
 - ii. The project's projected financial structure
 - iii. Expected sources of debt and equity financing
 - iv. Estimated construction costs
 - v. The projected capital structure
 - vi. Describe any agreements entered into with respect to equity ownership in the proposed project and any other financing arrangement.

In addition, the financing plan should address the financing of development and permitting costs. All bidders are required to provide this information.

- 5.3 Provide documentation illustrating the experience of the project sponsor in securing financing for projects of similar size and technology. For each project previously financed provide the following information:
 - i. Project name and location
 - ii. Project type and size
 - iii. Date of construction and permanent financing

Draft 2/25/15

- iv. Form of debt and equity financing
- 5.4 For projects that include new facilities or capital investment, provide evidence that the bidder has the financial resources and financial strength to complete and operate the project as planned.
- 5.5 Provide copies of the most recent audited financial statement or annual report for each bidder for each of the past three years; including affiliates of the bidder (if audited statements are not available, unaudited statements are to be provided). Also, provide the credit ratings from Standard & Poor's and Moody's (the senior unsecured long term debt rating or if not available, the corporate rating) of the bidder and any affiliates and partners.
- 5.6 The bidder should demonstrate its ability (and/or the ability of its credit support provider) to provide the required security, including its plan for doing so.
- 5.7 Provide a description of any current credit issues/ credit rating downgrade events regarding the bidder or affiliate entities raised by rating agencies, banks, or accounting firms.
- 5.8 Describe the role of the Federal Production Tax Credit or Investment Tax Credit (or other incentives) on the financing of the project.
- 5.9 Bidders must disclose any pending (currently or in the past three years) or threatened litigation or disputes related to projects developed, owned or managed by Bidder or any of its affiliates in the United States, or related to any energy product sale agreement.
- 5.10 What is the expected operating life of the proposed project?
- 5.11 For projects that include new facilities or capital investment, has the bidder already obtained financing, or a commitment of financing, for the project? Is such financing or financing commitment contingent on obtaining a long-term power sales agreement, such as one that would be obtained if the bidder's proposal is accepted? If financing has not been obtained, explain how obtaining a long-term power sales agreement as proposed will help you in obtaining financing for the proposed project or in obtaining more favorable terms for the financing of the proposed project.
- 5.12 State whether the bidder has executed power sales agreements with respect to energy, RECs and/or capacity for the project (including any agreements that have been terminated) and provide information regarding the associated term and quantities, and whether bidder has been alleged to have defaulted under or breached any such agreement.
- 5.13 Description of Bidder and all affiliated entities and joint ventures transacting business in the energy sector.

Draft 2/25/15

- 5.14 Has Bidder, or any affiliate of Bidder, in the last five years, (a) consented to the appointment of, or was taken in possession by, a receiver, trustee, custodian or liquidator of a substantial part of its assets, (b) filed a bankruptcy petition in any bankruptcy court proceeding, (c) answered, consented or sought relief under any bankruptcy or similar law or failed to obtain a dismissal of an involuntary petition, (d) admitted in writing of its inability to pay its debts when due, (e) made a general assignment for the benefit of creditors, (f) was the subject of an involuntary proceeding seeking to adjudicate that Party bankrupt or insolvent, (g) sought reorganization, arrangement, adjustment, or composition of it or its debt under any law relating to bankruptcy, insolvency or reorganization or relief of debtors.
- 5.15 Briefly describe any known conflicts of interest between Bidder or an affiliate of Bidder and any Soliciting Party, or any affiliates of the foregoing.
- 5.16 Describe any litigation, disputes, claims or complaints involving the Bidder or an affiliate of Bidder, against any Soliciting Party or any affiliate of any Soliciting Party.
- 5.17 Describe any litigation, disputes, claims or complaints, or events of default or other failure to satisfy contract obligations, or failure to deliver products, involving Bidder or an affiliate of Bidder, and relating to the purchase or sale of energy, capacity or renewable energy certificates or products.
- 5.18 Confirm that directors, employees and agents of Bidder and any affiliate of Bidder are not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy, collusion or other impropriety with respect to bidding on any contract (detail any exceptions).
- 5.19 Identify all regulatory and other approvals needed by Bidder to execute a binding sale agreement.
- 5.20 Describe how the project will conform to FERC's applicable regulatory requirements, including, but not limited to, FERC requirements relating to allocation of transmission capacity and open access, the justness and reasonableness of rates, the potential for undue preference or discrimination, and affiliate dealings, if any."

6. SITING, INTERCONNECTION, AND DELIVERABILITY

This section of the proposal addresses project location, siting, real property rights and interconnection issues. Bidders should ensure that the threshold criteria outlined in Section 2.2 of the RFP for generation and interconnection siting are verified in their responses.

- 6.1 Provide a site plan including a map of the site that clearly identifies the location of the Eligible Facility site and/or Transmission Project route, the total acreage for Eligible Facilities, the anticipated interconnection point (or, if applicable, multiple points for a

Draft 2/25/15

Transmission Project), and the relationship of the site to other local infrastructure, including transmission facilities, roadways, and water sources. In addition to providing the required map, provide a site layout plan which illustrates the location of all major equipment and facilities on the site.

- 6.2 Provide evidence (including applicable documentation) of the right to use the Eligible Facility site and/or Transmission Project route, including, for Eligible Facilities, and any rights of way needed for interconnection.
- i. Does the project have a right to use the Eligible Facility site and/or Transmission Project route for the entire proposed term of the PPA or tariff (e.g., by virtue of ownership or land development rights obtained from the owner)?
 - ii. If so, please detail the Bidder's rights to control the Eligible Facility site and/or Transmission Project route control.
 - iii. Identify any real property rights (e.g., fee-owned parcels, rights-of-way, development rights or easements) that are required for access to the Eligible Facility site and/or Transmission Project route or for interconnection. Describe the status of acquisition of real property rights, and describe the plan for securing the necessary real property rights, including the proposed timeline. Include these plans and the timeline in the overall project timeline.
- 6.3 Provide evidence that the Eligible Facility site and/or Transmission Project route is properly zoned or permitted. If the Eligible Facility site and/or Transmission Project route is not currently zoned or permitted properly, identify present and required zoning and/or land use designations and permits and provide a permitting plan and timeline to secure the necessary approvals.
- 6.4 Provide a description of the area surrounding the Eligible Facility site and/or Transmission Project route, including a description of the local zoning, flood plain information, existing land use and setting (woodlands, grasslands, agriculture, other).
- 6.6 For Eligible Facilities, describe and provide a map of the proposed interconnection that includes the path from the generation site to the ISO-New England Pool Transmission Facilities ("PTF"). Describe how the bidder plans to gain interconnection site control.
- 6.7 Please describe the status of any planned interconnection to the grid. Has the bidder made a valid interconnection request to ISO New England Inc. ("ISO-NE"), the applicable New England Transmission Owner, or any neighboring control areas? Describe the type of interconnection service requested, i.e., Capacity Network Resource Interconnection Service, Capacity Network Import Interconnection Service or Network Resource Interconnection Service or Network Import Service.

Draft 2/25/15

- 6.8 Describe the Project's electrical system performance and its impact to the reliability of the New England Transmission system. For Transmission Projects provide a description of how the project would satisfy ISO NE's I.3.9 requirements. Provide the status of any interconnection studies already underway with ISO-NE and/or the transmission owner. Provide a copy of any studies completed to date. Provide a copy of an interconnection agreement, if any, executed by the bidder with respect to the proposed project. If an interconnection agreement has not been executed, please provide the steps that need to be completed before an interconnection agreement can be executed and the associated timeline.
- 6.9 Provide a copy of an electrical one-line diagram showing the interconnection facilities and the relevant facilities of the transmission provider.
- 6.10 Specify and describe the current or new interconnection facilities (lines, transformers, switching equipment, system control protection, etc.) that bidder owns or is intending to construct or have constructed in order to deliver the proposed energy.
- 6.11 Incremental data requirements for Projects that include Transmission facilities;
1. IDV file(s) in PSSE v32 format modeling only the new/modified Transmission components of the project.
 2. If the Bidder does not use PSSE, provide in text format necessary modeling data as follows:
 - Line Data: Thermal Ratings/Impedance/Line Length/to and from bus numbers and names
 - Transformer data: (including Phase shifting transformers if applicable): Thermal Ratings/Impedance/To and from bus numbers and names
 - Reactive compensation models as necessary
 - Other changes to the model that would occur due to a Project such as terminal changes for lines/transformer/generator leads/loads etc.

7. ENVIRONMENTAL ASSESSMENT, PERMIT ACQUISITION PLAN AND TIER 1 CERTIFICATION

This section addresses environmental and other regulatory issues associated with project siting, development and operations.

- 7.1 Provide a list of all the permits, licenses, and environmental assessments and/or environmental impact statements required. If a bidder has secured any permit or has applied for a permit, please identify in the response.

Draft 2/25/15

- i. Provide a list of all Federal, state and local permits, licenses, and environmental assessments and/or environmental impact statements required to construct and operate the project.
 - ii. Identify the governmental agencies that will issue or approve the required permits, licenses, and environmental assessments and/or environmental impact statements.
- 7.2 Provide the anticipated timeline for seeking and receiving the required permits, licenses, and environmental assessments and/or environmental impact statements. Include a project approval assessment which describes, in narrative form, each segment of the process, the required permit or approval, and the basis for projection of success by the milestone date. All requirements should be included on the project schedule in Section 10.
- 7.3 Provide a preliminary environmental assessment of the site and project, including both construction and operation, as applicable. In addition, the bidder should identify environmental impacts associated with the proposed project, any potential impediments to development, and its plan to mitigate such impacts or impediments. The analysis should address each of the major environmental areas presented below, as applicable to the proposed project:
 - i. Impacts during site development
 - ii. Transportation infrastructure
 - iii. Air quality impacts
 - iv. Access to water resources/water quality impacts
 - v. Ecological and natural resources impacts
 - vi. Land use impacts
 - vii. Cultural resources
 - viii. Previous site use (e.g., greenfield, brownfield, industrial, etc.)
 - ix. Noise level impacts
 - x. Aesthetic/visual impacts
 - xi. Transmission infrastructure impacts
 - xii. Fuel supply access, where applicable

Draft 2/25/15

- 7.4 Provide documentation identifying the level of public support for the project including letters from public officials, newspaper articles, etc. Provide a plan for community outreach activities, and discuss the status of that plan.
- 7.5 For bids that include Tier 1 Qualified Clean Energy, provide documentation demonstrating that the project was or will be qualified as a Tier 1 Class I renewable energy source under Conn. Gen. Stat. Section 16-1(26) as amended by Connecticut Public Act 13-303 M.G.L. c. 25A, § 11F, and 225 CMR 14.00; and/or R.I.G.L. § 39-26-1 and Rules and Regulations Governing the Implementation of a Renewable Energy Standard. If the facility is already in operation, please indicate when the facility received such qualification.

8. ENGINEERING AND TECHNOLOGY; COMMERCIAL ACCESS TO EQUIPMENT;

This section includes questions pertinent to the engineering design and project technology. This section must be competed for a project that includes new facilities or capital investments. Bidders should provide information about the specific technology or equipment including the track record of the technology and equipment and other information as necessary to demonstrate that the technology is viable.

- 8.1 Provide a reasonable but preliminary engineering plan which includes the following information:
 - i. Type of generation technology, if applicable
 - ii. Major equipment to be used
 - iii. Manufacturer of the equipment
 - iv. Status of acquisition of the equipment
 - v. Whether the bidder has a contract for the equipment. If not, describe the bidder's plan for securing equipment and the status of any pertinent commercial arrangements
 - vi. Equipment vendors selected/considered
 - vii. History of equipment operations
 - viii. If the equipment manufacturer has not yet been selected, identify in the equipment procurement strategy the factors under consideration for selecting the preferred equipment
- 8.2 If the bidder has not yet selected the major generation equipment for a project, please provide a list of the key equipment suppliers under consideration.

Draft 2/25/15

- 8.3 Please identify the same or similar equipment by the same manufacturer that are presently in commercial operation including the number installed, installed capacity and estimated generation for the past three years.
- 8.4 For less mature technologies, provide evidence (including identifying specific applications) that the technology to be employed for energy production is ready for transfer to the design and construction phases. Also, address how the status of the technology is being considered in the financial plan for the project.
- 8.5 Please indicate if the bidder has secured its equipment for the project. If not, identify the long-lead equipment options and describe the timing for securing equipment.

9. OPERATION AND MAINTENANCE

Projects that can demonstrate that the operation and maintenance (“O&M”) plan, level of funding, and mechanism for funding will ensure reliable operations during the term of the contract or the tariff are preferred.

- 9.1 Provide an O&M plan for the project that demonstrates the long term operational viability of the proposed project. The plan should include a discussion of the staffing levels proposed for the project, the expected role of the project sponsor or outside contractor, scheduling of major maintenance activity, and the plan for testing equipment.
- 9.2 Describe in detail the proposed O&M funding mechanism and funding levels to support planned and unplanned O&M requirements.
- 9.3 Describe the terms (or expected terms) of the warranties and/or guarantees on major equipment that the bidder is utilizing or proposing to utilize.
- 9.4 Describe the status of the project sponsor in securing any O&M agreements or contracts. Include a discussion of the sponsor’s plan for securing a medium-term or long-term O&M contract, including the expected provider of O&M services.
- 9.5 Provide examples of the bidder’s experience with O&M services for other similar projects.

10. PROJECT SCHEDULE

For Eligible Facilities or Transmission Projects that are not yet in-service, bidders are required to provide a complete critical path schedule for the project from the notice of selection of the project for contract consideration to the start of commercial operations. For each project element, list the start and end date.

- 10.1 Identify the elements on the critical path. The schedule should include, at a minimum, facility contracts, start of construction, construction schedule, siting, fuel supply,

Draft 2/25/15

financing, engineering and procurement, acquisition of real property rights, Federal, state and/or local permits, licenses, environmental assessments and/or environmental impact statements (including anticipated permit submittal and approval dates) and any other requirements that could influence the project schedule and the commercial operation date, including requirements pertaining to the generator interconnection process and any transmission facilities for which the bidder seeks recovery through federal transmission rates.

11. PROJECT MANAGEMENT/EXPERIENCE

Bidders are required to demonstrate project experience and management capability to successfully develop (for a project that includes new facilities or capital investment) and operate the project proposed. The Soliciting Parties are particularly interested in project teams that have demonstrated success in projects of similar type, size and technology and, for projects that include new facilities or capital investment, can demonstrate an ability to work together effectively to bring the project to commercial operation in a timely fashion.

- 11.1 Provide an organizational chart for the project that lists the project participants and identifies the corporate structure, including general and limited partners.
- 11.2 For a project that includes new facilities or capital investment, provide statements that list the specific experience of the bidder and each of the project participants (including, when applicable, the bidder, partners, EPC contractor and proposed contractors), in developing, financing, owning, and operating generating or transmission facilities (as applicable), other projects of similar type, size and technology, and any evidence that the project participants have worked jointly on other projects.
- 11.3 For a bid that includes existing facilities, provide statements that list the specific experience of the bidder and each of the project participants (including, when applicable, the bidder, partners, EPC contractor and proposed contractors), in owning and operating generating or transmission facilities (as applicable), other projects of similar type, size and technology, and any evidence that the project participants have worked jointly on other projects.
- 11.4 Provide a management chart that lists the key personnel dedicated to this project and provide resumes of the key personnel. For Eligible Facilities or Transmission Projects that are not yet in-service, key personnel of the bidder's development team having substantial project management responsibilities must have:
 - i. Successfully developed and/or operated one or more projects of similar size or complexity or requiring similar skill sets; AND
 - ii. For a project that includes new facilities or capital investment, experience in financing power generation projects (or have the financial means to finance the project on the bidder's balance sheet).

Draft 2/25/15

- 11.5 Provide a listing of all projects the project sponsor has successfully developed or that are currently under construction. Provide the following information as part of the response:
- i. Name of the project
 - ii. Location of the project
 - iii. Project type, size and technology
 - iv. Commercial operation date
 - v. Estimated and actual capacity factor of the project for the past three years
 - vi. Availability factor of the project for the past three years
 - vii. References, including the names and current addresses and telephone numbers of individuals to contact for each reference.
- 11.6 With regard to the bidder's project team, identify and describe the entity responsible for the following, as applicable:
- i. Construction Period Lender, if any
 - ii. Operating Period Lender and/or Tax Equity Provider, as applicable
 - iii. Financial Advisor
 - iv. Environmental Consultant
 - v. Facility Operator and Manager
 - vi. Owner's Engineer
 - vii. EPC Contractor (if selected)
 - viii. Transmission Consultant
 - ix. Legal Counsel
- 11.7 Details experience in ISO-NE Markets. With regard to bidder's experience with ISO-NE markets, please indicate the entity that will assume the duties of Lead Market Participant for your Project. Please provide a summary of the proposed Lead Market Participant's experience with each of the ISO-NE markets.

Draft 2/25/15

12. EMISSIONS

12.1 For existing generation facilities, provide emissions estimates based on available continuous emissions monitoring data. Where continuous emissions monitoring data is not available, provide emissions estimates based on the most recent stack emissions test conducted using an EPA reference method approved by the applicable permitting and enforcement authority. Where continuous emissions data or actual stack emissions test data are not available, provide emissions estimates based on emissions factors from the latest edition of EPA's AP-42, Compilation of Air Pollutant Emissions Factors.

For new generation facilities, provide emissions estimates based on available data from the unit manufacturer. Alternatively, provide actual emissions data determined in accordance with the paragraph above for a similar facility built within the past 3 years. Include copies of supporting documentation for all emissions estimates.

Project Anticipated Emissions, expressed in pounds/megawatt-hour (lbs/MWh)

Source of Information	Date of Test (if applicable)	Greenhouse Gases (all except methane) Expressed as Carbon Dioxide equivalent (CO ₂ e)	Nitrogen Oxides (NO _x)	Sulfur Oxides (SO _x)	Carbon Monoxide (CO)	Particulate Matter (PM _{2.5})	Methane (CH ₄)

12.2 Describe any past investments that will, or have been made to your facility to improve its emissions profile or any planned future investments made to your facility in order to improve its emissions profile. Pollutant specific emissions improving technologies include, but are not limited to:

- NO_x – Selective/Non-Selective Catalytic Reduction
- SO_x – wet/dry scrubbers

Draft 2/25/15

- PM – fabric filter/baghouse, electrostatic precipitator, cyclone separator
- CO – oxidation catalyst

Investments that improve overall emissions include, but are not limited to:

- equipment tune-ups (improves combustion efficiency and emissions)
- boiler tube replacements (improves heat transfer efficiency and reduces fuel use)
- other efficiency improvements (*e.g.*, installing a heat exchanger to use waste heat to pre-heat feedwater to the boiler)

Include control equipment specifications, date(s) of installation, expected life of equipment, benefits gained from the addition of such equipment, etc.

- 12.3 Describe how your project will contribute to (i) Connecticut’s goals under Connecticut Public Act 08-98, *An Act Concerning Connecticut Global Warming Solutions* (2008), codified in Section 22a-200a of the Connecticut General Statutes; (ii) the Massachusetts 2008 Global Warming Solutions Act (GWSA) and the 2010 Clean Energy and Climate Plan for 2020. Describe how your project will contribute both to the short term 2020 goal, and longer term 2050 goal found in these laws. And (iii) Rhode Island’s purposes under Chapter 39-31

13. CONTRIBUTION TO EMPLOYMENT AND ECONOMIC DEVELOPMENT

- 13.1 Please provide an estimate of the number of jobs in to be created directly during project development and construction (for a project that includes new facilities or capital investment), and during operations, and a general description of the types of jobs created, estimated annual compensation, the employer(s) for such jobs, and the location. Please treat the development, construction, and operation periods separately in your response.
- 13.2 Please provide the same information as provided in response to question 13.1 above but with respect to jobs that would be indirectly created in as a result of the proposed project.
- 13.3 Please describe any other economic development benefits that could be achieved in by the proposed project, such as creating property tax revenues or purchasing capital equipment, materials or services for New England businesses. Please provide the location(s) where these economic development benefits are expected to occur.

14. ADDITIONAL INFORMATION REQUIRED FOR TRANSMISSION PROJECTS

Bids that include Transmission Projects must also provide the following information:

Draft 2/25/15

14.1 The proposed payment required.

- i. If the proposed payment may change during the contract term, then the Eligible Bidder must also provide the method that transmission owner shall use to determine the payment for the Transmission Project under the transmission tariff or rate schedule to be filed with FERC. If the proposed payment is a formula rate, the Eligible Bidder must also provide the formula and its proposed inputs that the transmission owner will file with FERC.
- ii. If the proposed payment is based on the Transmission Project's cost of service and may change during the contract term based on changes in the cost of service, a full revenue requirements model submitted as a working Excel spreadsheet with the formulas intact. All assumptions must be detailed.
- iii. If the pricing proposed is based on a cost of service basis, detailed cost containment commitments such as fixed price components, cost overrun restrictions, or other cost bandwidth provisions that are proposed to limit ratepayer risk must be clearly defined.

14.2 The length of time that the tariff payments defined in 14.1 above will be paid.

14.3 The design life of the project.

14.4 If the bidder is proposing the use of a Performance-Based Tariff in connection with the delivery commitment model, the bidder is required to state the proposed financial penalty fee for non-delivery.

14.5 If the bidder is proposing the use of a Performance-Based Tariff in connection with the delivery commitment model, the bidder is required to provide details of the source and reliability of the clean energy supply along with the rights and ownership of that energy.

14.6 A description of the reliability benefits of the proposed Transmission Project, and its impact on existing transmission constraints.

15. EXCEPTIONS TO FORM PPA

Please attach an explanation of any exceptions to the Form PPA set forth in Appendix C to this Notice, including any specific alternative provisions in a redline format to the Form PPA.

Bidders are discouraged from proposing changes to the Form PPA.

Draft 2/25/15

APPENDIX C - 1

Form of Class 1 Power Purchase Agreement

[See Separate Document]

Draft 2/25/15

APPENDIX C - 2

Form of Firm Power Purchase Agreement

[See Separate Document]

Draft 2/25/15

APPENDIX D

Certification

A proposal will be considered incomplete unless all required signatures are provided.

I have personally examined and am familiar with the information submitted in this proposal and all appendices thereto, and I certify that based on reasonable investigation, including my inquiry of the individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief.

I understand that a false statement or failure to disclose material information in the submitted proposal may be punishable as a criminal offense pursuant to Title 53a of the General Statutes, and in accordance with any other applicable statute.

I certify that this application is on complete and accurate forms as prescribed by the Commissioner without alteration of the text.

Bidder or Bidder's Authorized Representative

Print or Type Name

Project Title(s) as Submitted to the Soliciting Parties

Title

Date Signed

Draft 2/19/15

APPENDIX E

Limited Consent to Disclosure of Confidential Business Information

By signing below, the undersigned (“Bidder”) acknowledges and authorizes The Connecticut Light and Power Company and The United Illuminating Company (“EDCs”) and Levitan& Associates, Inc. (“Department’s Consultant”) to access the entire unredacted proposal, including all attachments and any material deemed “Confidential.” **A proposal will be considered incomplete unless all required signatures are provided.** The Bidder further acknowledges that it will send the entire unredacted proposals directly to the EDCs and the Department’s Consultant as outlined in Section 1.3.2.2 of the Request for Proposals. This Limited Consent should not be construed as any determination about the Bidder’s project.

Bidder acknowledges and agrees that the role of the EDCs and the Department’s Consultant is consultative only, and neither the EDCs nor the Department’s Consultant shall have any liability arising out of or related to the Request for Proposals, including, without limitation, the process related thereto, any information or documents provided pursuant thereto, or any acts or omissions of any agency or department of the State of Connecticut related thereto.

Bidder

Signature of an Officer of Bidder

Print or Type Name of Officer

Project Title(s) as Submitted to the Soliciting Parties

Title

Date Signed

Draft 2/25/15

APPENDIX F

Consent to Submittal to PURA

By signing below, the undersigned (“Bidder”) acknowledges and authorizes the Department of Energy and Environmental Protection (“Department”) to submit the entire unredacted proposal, including all attachments and any material deemed “Confidential,” to the Public Utilities Regulatory Authority (“Authority”). **A proposal will be considered incomplete unless all required signatures are provided.** Such submittal shall be only in the event the Bidder’s proposal is requested by the Authority, in whole or in part, in any proceedings related to the procurement of run-of-the-river hydropower, landfill methane gas, or biomass Class I renewable energy resources under Section 8 of Connecticut Public Act 13-303, *An Act Concerning Connecticut’s Clean Energy Goals*. This Consent to Submittal to PURA should not be construed as any conclusive determination about the Bidder’s project.

Bidder

Signature of an Officer of Bidder

Print or Type Name of Officer

Project Title(s) as Submitted to the Soliciting Parties

Title

Date Signed

Draft 2/25/15

EXHIBIT 1

This procurement is conducted in Connecticut pursuant to Section 6 and 7 of Public Act 13-303, *An Act Concerning Connecticut's Clean Energy Goals* as well as under the relevant authority given DEEP under Connecticut General Statutes Sections 16a-3d, 16a-3e, and 16a-14.

Draft 2/25/15

APPENDIX G

Overview of the Transmission with Qualified Clean Energy Delivery Commitment Model

- Proposed as an alternative to a traditional power purchase agreement (“PPA”) as a means of procuring clean energy generation (*i.e.*, low or no carbon resources), and as an alternative to a typical transmission service agreement for the construction of the necessary transmission. The clean energy will be used to help satisfy the energy and environmental policy requirements and other statutory objectives of the New England states, including renewable portfolio standard (“RPS”) requirements.
- Under the model, a transmission developer, likely teamed with a supplier of clean energy (which could be a separate entity from the transmission developer), would build, if selected through an RFP process, a transmission project for which cost recovery from load in participating states would be dependent on and in proportion to the fulfillment of a “clean energy delivery commitment” tied to a supplier’s resource.
- The “clean energy delivery commitment” would be for the delivery of a defined minimum number of MWh per year (or other defined period) of additional clean energy from a defined supplier resource into the ISO-NE system in real-time at a defined system node.
- As noted above, the transmission developer’s ability to recover its project costs from the load in participating states would be dependent on and in proportion to the fulfillment of the clean energy delivery commitment; any remaining cost recovery requirements, *e.g.*, in the case of any non-fulfillment of the clean energy delivery commitment, or any other necessary arrangements would be between the transmission developer and the supplier of clean energy and covered in their FERC filed transmission service and/or other agreements. This approach is consistent with cost causation principles because the load benefits from the transmission built for clean energy to the extent the supplier meets the clean energy delivery commitment.
- The contractual framework could vary depending on whether the selected supplier is the same entity as the transmission developer. If there are separate entities, two related FERC-filed agreements could be used:

Draft 2/25/15

(1) **The Transmission Developer Rate Schedule**

This rate schedule would cover the transmission developer's ability to recover its revenue requirements through the electric distribution companies ("EDCs") and other load-serving entities in the participating New England states.

Under the rate schedule, the EDCs would only be obligated to pay the transmission developer, through non-bypassable FERC approved transmission charges collected from all end use customers, the revenue requirements of the project under a formula rate, perhaps billed by ISO New England, in exchange for the transmission developer's agreement to build the transmission project to enable the delivery of the clean energy.

The obligation of the EDCs to collect and pay the revenue requirements of the project would be reduced in any year/period following a year/period in which the clean energy delivery commitment had not been fully met. The rate schedule would provide for a partial or full credit applied directly under the formula rate against the revenue requirements to be paid by the EDCs in such a year/period. As noted below, the transmission developer could negotiate with the supplier for any other arrangements it might require, such as a right to receive liquidated damages under the Supplier Agreement described below if the clean energy delivery commitment associated with the supplier's resource is not fully satisfied.

The EDC's obligations under the rate schedule would terminate in the event that an agreed minimum amount of the clean energy was not delivered for a specified period.

This agreement would need to be filed for FERC approval as a transmission rate schedule.

As examples only, provisions which could be added within the framework of any Formula Rate Sheet to incorporate this model are shown in the attachment at the end of this overview.

(2) **The Supplier/Transmission Developer Agreement**

This contract would be between the supplier and the transmission developer. It would set forth the terms and conditions of the agreed arrangements between the transmission developer and the supplier for the transmission and associated clean energy delivery commitment.

For example, the arrangements between the transmission developer and the supplier tied to the delivery commitment could be conditioned on either: (i) the developer providing the supplier with no cost transmission service on the

Draft 2/25/15

developer's project, or (ii) the agreement of the developer to build specific transmission upgrades to relieve congestion within the New England system to allow a less constrained dispatch of the supplier's existing or planned resource.

Also, the supplier could retain full discretion regarding: (i) the prices at which it offers to supply electric energy and other electricity products into the ISO New England markets; (ii) which electricity products to supply, as long as the supplied products satisfy the minimum delivery commitment, and (iii) the purchaser to which it supplies those products. The supplier would retain the revenues from these sales.

The supplier and transmission developer might agree to a specified amount of liquidated damages to be paid to the transmission developer following any year/period when the supplier does not fully meet its delivery commitment. Or, the transmission developer could charge a rate that would be set equal to any credit paid by the transmission developer to EDCs under the Transmission Developer-EDC rate schedule for any failure of the supplier to meet its delivery commitment.

Depending on the specific terms, the supplier agreement may need to be filed for FERC approval as an agreement related to transmission service.

- EDCs would require assurance of full recovery of all revenue requirement payments as non-bypass-able FERC approved transmission charges from all end use customers.
- The developer would enter into a separate agreement with ISO New England concerning operational control for the project and billing terms.
- Aspects of these arrangements would require FERC approval, but the participating New England states would be involved in establishing the initial terms of the delivery commitment arrangements and would retain final discretion over whether or not to proceed after FERC review.
- Although this is not a typical transmission service arrangement, we are not aware of any FERC policy or precedent that would preclude the implementation of the Transmission with Clean Energy Delivery Commitment Model.
- The Transmission with Clean Energy Delivery Commitment Model could provide substantial benefits to customers in promoting the clean energy and environmental policies of the participating New England states while allowing them to avoid the long-term investment and market risks they might otherwise have to carry through long-term PPAs.

Draft 2/25/15

Provided below, for example only, are provisions of a Formula Rate Sheet showing how the Transmission with Clean Energy Commitment model could be incorporated in a FERC filed rate schedule.

Attachment

Formula Rate Sheet (For Example Only)

I. Methodology

....

...This formula also sets forth the method that Owner shall use, if and when Minimum Energy Delivery Commitments associated with the _____ Transmission Line and AC Upgrades are not met, to determine the reduction to its Revenue Requirement recoverable from the Participating States' Transmission Customers.

II. Definitions

Capitalized terms not otherwise defined elsewhere in the Agreement and as used in this

Attachment have the following definitions

.....

Minimum Energy Delivery Commitments will equal the specified MW hours of Energy dispatched/delivered at the specified ISO-NE Node(s) during the specified periods of time, as provided in the table directly below.

Minimum Energy Commitments

<u>Energy (MWh)</u>	<u>Location (ISO-NE Node ID)</u>	<u>Period (Year)</u>
xxxxxxx	Nodeyyyy	2018 ...
...		
etc.	etc.	etc.

[Note: While the table above, provided as an example, suggests only yearly based delivery commitments, more refined/targeted delivery commitments could be included as desired (e.g., seasonal and/or seasonal peak hour minimum delivery requirements).]

.....

III. Calculation of Revenue Requirement

The Revenue Requirement for the _____ Transmission Line ...will equal...

Draft 2/25/15

...

IV. Calculation of the Revenue Requirement Recoverable from Participating States' Transmission Customers.

The Revenue Requirement recoverable from Participating States' Transmission Customers for the _____ Transmission Line will be equal to the sum of the Revenue Requirement as determined in Section III and any Reduction for Unmet Minimum Energy Delivery Commitments, with such reduction calculated as follows:

Reduction for Unmet Minimum Energy Delivery Commitments will equal the product of the Revenue Requirement calculated for the prior year and the ratio of the unmet portion of the Minimum Energy Delivery Commitment over the Minimum Energy Delivery Commitment for that prior year.

For example, assume the Revenue Requirement calculated for recovery in the prior year was equal to \$200,000, and assume 40% of the Minimum Energy Delivery Commitment was unmet in that same prior year. In that case, the Reduction for Unmet Minimum energy Delivery Commitment, to be applied to the Revenue Requirement recoverable from Participating States' Transmission Customers in the current year, would be the product of \$200,000 and 40%, or \$80,000.

[Note: While the reduction calculation provided above is based simply on a goal of full reimbursement of transmission support charges to transmission customers in direct proportion to unmet delivery commitments, other calculations could be considered to provide additional incentives.]

Draft 2/25/15

Appendix H

Procurement Statutes

CONNECTICUT PROCUREMENT STATUTES

Pursuant to Sections 6 and 7 of Connecticut Public Act 13-303, *An Act Concerning Connecticut's Clean Energy Goals*, the CT DEEP is soliciting proposals for PPAs for Tier 1 renewable energy resources and large scale hydropower (as defined by Conn. Gen. Stat. Section 16-1(26) and (53) and as amended by Public Act 13-303). The solicitation is being conducted in consultation with the State's Procurement Manager, the Office of Consumer Counsel, the Office of the Attorney General, the CT DEEP's independent Consultant, and the Connecticut EDCs. In the event that the CT DEEP finds any proposals submitted in response to these Connecticut Procurement Statutes to be in the interest of ratepayers, it may direct the Connecticut EDCs to enter into PPAs for energy and environmental attributes, or a combination thereof, for periods of up to Twenty (20) years for Tier 1 Qualified Energy and fifteen (15) years for Hydropower Resources.

CT DEEP is also soliciting proposals pursuant to Connecticut General Statutes Section 16a-14 for Tier 1 renewable energy resources and large scale hydropower and associated transmission that requires a FERC tariff without a PPA. Large scale hydropower that does not have an associated PPA cannot satisfy Tier 1 renewable energy requirements under the circumstances described in Section 9 of Public Act 13-303.

Once proposals are received by the Soliciting Parties, the proposals will be subject to a review, evaluation and selection process. The first stage ("Stage One") consists of a review of whether the proposals satisfy specified eligibility, threshold and other minimum requirements set forth in Section 2.2 of this RFP. The second stage ("Stage Two") consists of a quantitative and qualitative evaluation of proposals that pass the Stage One review, as described in Section 2.3 of this RFP.

Stage One analysis, the qualitative analysis, and the selection of proposals pursuant to the mandatory purchase requirements of the aforementioned Connecticut statutes will be the responsibility solely of the CT DEEP, after consultation with the State's Procurement Manager, the Office of Consumer Counsel, the Office of the Attorney General, the CT DEEP's independent Consultant, and the Connecticut EDCs.

The text of the Connecticut Statutes can be found at the following link:

<http://www.cga.ct.gov/2013/act/pa/pdf/2013PA-00303-R00SB-01138-PA.pdf>

http://www.cga.ct.gov/2013/pub/chap_295.htm#sec_16a-14

Draft 2/25/15

MASSACHUSETTS PROCUREMENT STATUTE

Section 83A requires the Massachusetts EDCs jointly to solicit proposals from renewable energy developers in coordination with the Massachusetts DOER at least twice during a four-year period that commenced on January 1, 2013. The Massachusetts EDCs are not required to enter into long-term contracts under Section 83A, to the extent that, in the aggregate, the contract volumes would exceed four percent (4%) of the total energy demand from all distribution customers in the service territory of a Massachusetts EDC, unless they voluntarily do so, with the approval of the MDPU. Section 83A of the Act reserves ten percent (10%) of that amount, or 0.4% of demand, for the output of newly developed small, emerging or diverse renewable energy distributed generation facilities that each Massachusetts EDC will solicit in a separate process. The Massachusetts EDCs are consulting with DOER with respect to this RFP and, with respect to the method of solicitation, but not the timetable, will consult with the MA AGO. Any contracts will be subject to review and approval by the MDPU, including review of any recommendations offered by the MA AGO with respect to each such contract.

A Massachusetts EDC may decline to consider contract proposals that otherwise satisfy the requirements of Section 83A if the Massachusetts EDC determines that the terms and conditions would place an unreasonable burden on its balance sheet, and may structure its contracts, pricing or administration of the Eligible Products purchased to mitigate impacts on the balance sheet or income statement of the Massachusetts EDC or its parent company, subject to the approval of the MDPU. Further, a Massachusetts EDC is not required to enter into a long-term contract to facilitate the financing of renewable energy generation unless reasonable proposals conforming to the requirements stated in this RFP have been received and found by the MDPU to be cost effective to Massachusetts electric customers over the term of the contract.

Pursuant to Section 83A, the MDPU's regulations state that "to the extent there are significant transmission costs included in a bid, the department of public utilities shall authorize the contracting parties to seek recovery of such transmission costs of the project through federal transmission rates, consistent with policies and tariffs of the federal energy regulatory commission, to the extent the department finds such recovery is in the public interest"

The long-term contracting obligation established by Section 83A is separate and distinct from the Massachusetts EDCs' obligation to meet applicable annual RPS requirements pursuant to Section 11F of Chapter 25A of the Massachusetts General Laws. However, under Section 83A, the renewable-generation resource from which energy and/or RECs are procured under a long-term PPA must be eligible to participate in the Massachusetts RPS program and to sell RECs under the program, and a Massachusetts EDC may use RECs purchased under such a long-term PPA to satisfy its RPS requirements.

The Massachusetts EDCs, the DOER and the MA AGO have agreed to collaborate on a coordinated process with respect to this solicitation. The participation of each of the Massachusetts EDCs in this RFP provides prospective bidders with consistent bid submittal and

Draft 2/25/15

evaluation requirements across all territories. Responses to the RFP will be submitted to the Evaluation Team for evaluation consistent with the terms of the RFP.

The initial evaluation and ranking will be conducted by the Massachusetts EDCs, and then the Massachusetts EDCs will collaborate with parties from all three of the Procuring States to determine whether together they can create a portfolio of projects that would reduce the cost to customers while still complying with the Massachusetts legal requirements and achieving the Massachusetts clean energy goals. Each Massachusetts EDC will consider the results of the evaluation, determine projects for selection, and finalize and execute contracts with any successful bidders that it selects as a result of this process. Each Massachusetts EDC will separately file any executed contracts with the MDPU for approval before they become effective. Prior to short listing and bid selection, entering into any contract, and filing any contract for approval with the MDPU, the Massachusetts EDCs will consult with DOER. At or after such time that an executed contract is proposed to the MDPU, DOER will submit its assessment of: (1) the process followed by the Massachusetts EDCs resulting in the execution of the contract; and (2) the merits of the particular contract proposed for approval.

Consistent with Section 83A, the Massachusetts EDCs may execute contracts associated with this RFP that are outside of the requirements of the Section 83A, and submit such contracts to the MDPU for approval. Section 83A of the Green Communities Act and the Department's regulations at 220 C.M.R. § 21.00 et seq. require the Department to make specific determinations regarding a proposed long-term contract for renewable energy. As a threshold matter, the Department must determine that the proposed contracts facilitate the financing of the renewable energy generating source to which the contract applies. In addition, the Department must make findings related to: (1) the facility's proposed commercial operation date; (2) the facility's qualification by DOER for the Massachusetts Class I RPS; (3) the facility's ability to provide enhanced electric reliability within Massachusetts; (4) the facility's contribution to the moderation of system peak load; (5) the cost-effectiveness to Massachusetts customers over the term of the contract; and, (6) where feasible, whether the facility creates additional employment and economic development benefits in Massachusetts. 220 C.M.R. § 21.05(1). In addition, the Department considers whether the proposed contract is in the public interest.

RHODE ISLAND PROCUREMENT STATUTE

Narragansett Electric Company, in consultation with the Rhode Island Office of Energy Resources and the Rhode Island Division of Public Utilities and Carriers, is authorized to voluntarily participate in multi-state or regional efforts to procure commercially reasonable: (1) domestic or international large or small scale hydroelectric power; and (2) eligible renewable energy resources, including wind, as defined by R.I. G.L. § 39-26-5(a), on behalf of electric customers; provided, however, that large scale hydroelectric power shall not be eligible under the renewable energy standard established by chapter 26 of title 39 of the General Laws of Rhode Island. The term "commercially reasonable" shall mean terms and pricing that are

Draft 2/25/15

reasonably consistent with what an experienced power market analyst would expect to see in transactions involving regional energy resources and regional energy infrastructure. Commercially reasonable shall include having a credible project operation date, as determined by the Rhode Island Public Utilities Commission (“RIPUC”), but a project need not have completed the requisite permitting process to be considered commercially reasonable. The determination of whether terms and pricing are “commercially reasonable” shall be made ultimately by the RIPUC. In addition, each long-term contract entered into pursuant to this solicitation shall contain a condition that it shall not be effective without RIPUC review and approval as provided in Chapter 39-31. Further, Narragansett’s method of soliciting proposals from renewable energy developers pursuant to Chapter 39-31 is subject to the review and approval of the RIPUC.

Narragansett, in consultation with the Rhode Island Office of Energy Resources and the Rhode Island Division of Public Utilities and Carriers, is also authorized to voluntarily participate in multi-state or regional efforts to develop and construct regional electric transmission projects that would allow for the reliable transmission of large or small-scale domestic or international hydroelectric power to New England load centers that will benefit the state of Rhode Island and its electric customers. Prior to any binding commitments being made, Narragansett, the Rhode Island Office of Energy Resources and the Rhode Island Division of Public Utilities and Carriers must jointly file that proposal with the RIPUC and the Rhode Island Governor, Senate President, Speaker of the House, Department of Environmental Management and Commerce Corporation. That filing must identify the energy reliability, energy security and customer impacts expected to result from the proposal. The RIPUC is required to approve the rate recovery mechanisms relating to costs of such new transmission proposals.

Draft 2/25/15

APPENDIX I

CONFIDENTIAL INFORMATION

CONFIDENTIAL INFORMATION WITH RESPECT TO CONNECTICUT

If you wish to submit information to the Soliciting Parties that is of a confidential nature, please recognize that the Connecticut Freedom of Information Act governs the public's accessibility to that information. This law generally requires the disclosure of material in the possession of the State upon request of any citizen, unless the material is specifically exempt from disclosure. An example of an exemption is a "trade secret," as defined by section 1-210(b)(5) of the Connecticut General Statutes. Information claimed as confidential must be isolated from other material in the proposal and labeled "CONFIDENTIAL." With this submission of information claimed and labeled as confidential, you must provide the legal basis for your confidentiality claim, describe what efforts have been taken to keep the information confidential, and provide whether the information sought to be protected has an independent economic value by not being readily known in the industry. With your legal support and reasonable justification for confidentiality as described herein, the Connecticut state agencies participating on the Soliciting Parties will be better equipped to safeguard your confidential information should it become the subject of a Connecticut Freedom of Information Act inquiry. Information deemed confidential will remain confidential for losing bidders.

All information for winning bidders, including confidential information, will be released and become public 180 days after contracts have been executed and approved by all relevant regulatory authorities, unless otherwise ordered by the Connecticut PURA.

CONFIDENTIAL INFORMATION WITH RESPECT TO MASSACHUSETTS

With respect to the Commonwealth of Massachusetts, and subject to the confidentiality provisions described above for information associated with this solicitation in the possession of the State of Connecticut, the Massachusetts EDCs shall use commercially reasonable efforts to treat the confidential information that they receive from bidders in a confidential manner and not, except: (1) as required by law; (2) pursuant to a request for information in a regulatory or judicial proceeding; or (3) pursuant to a request for information by a public utilities commission with supervisory authority over any of the Massachusetts EDCs, disclose such information to any third party or use such information for any purpose other than in connection with this RFP; provided, however, that if such confidential information is sought in any regulatory or judicial inquiry or proceeding or pursuant to a request for information by a public utilities commission with supervisory authority over any of the Massachusetts EDC, the Massachusetts EDCs shall take reasonable steps to limit disclosure and use of said confidential information through the use of non-disclosure agreements or requests for orders seeking protective treatment, and shall inform the bidders that the confidential information is being sought. Bidders are advised that the Massachusetts EDCs will share bid information with the Massachusetts DOER and the MA AGO to facilitate DOER's and the MA AGO's ability to perform their roles under Section 83A, which include their obligations to assess: (1) the process followed by the Massachusetts EDCs;

Draft 2/25/15

and (2) the merits of one or more PPAs proposed for approval to the MDPU. Pursuant to G.L. c. 25A, § 7, DOER has statutory authority to protect price, inventory and product delivery data. Notwithstanding the foregoing, in the event such confidential information is shared pursuant to a request for confidential treatment and confidential treatment is not afforded, the Massachusetts EDCs shall not be held responsible. Similarly, bidders shall use commercially reasonable efforts to treat all confidential information received from the Massachusetts EDCs in a confidential manner and will not, except as required by law or in a regulatory or judicial proceeding, disclose such information to any third party or use such information for any purpose other than in connection with this RFP; provided, however that if such confidential information is sought in any regulatory or judicial proceeding, the bidders shall take reasonable steps to limit disclosure and use of said confidential information through the use of non-disclosure agreements or requests for orders seeking protective treatment, and shall inform the Massachusetts EDCs that the confidential information is being sought.

Bidders are advised that, per MDPU requirements, confidential bidder information may be disclosed during the MDPU approval process to parties that are granted intervenor status in the proceeding. In past proceedings, intervenor status has been granted to competitive suppliers and industry trade groups, and therefore, confidential bidder information has been required to be disclosed to legal counsel and/or a third-party consultant retained by the intervenor for purposes of the proceeding.

Bidders are advised that, for any requests of the Massachusetts EDCs for bidder information other than as described in the previous two paragraphs, the Massachusetts EDCs will recommend that the party seeking bidder information contact the bidder directly to request such information and negotiate a non-disclosure agreement, as necessary.

CONFIDENTIAL INFORMATION WITH RESPECT TO RHODE ISLAND

With respect to the State of Rhode Island, and subject to the confidentiality provisions described above for information associated with this solicitation in the possession of the State of Connecticut, Narragansett agrees to use commercially reasonable efforts to treat the non-public information it receives from bidders in a confidential manner and will not, except as required by law or in a regulatory proceeding, disclose such information to any third party or use such information for any purpose other than in connection with this RFP; provided, that, in any regulatory, administrative or jurisdictional proceeding in which confidential information is sought, Narragansett shall take reasonable steps to limit disclosure and use of said confidential information through the use of nondisclosure agreements or orders seeking protective treatment, and shall inform the bidders if confidential information is being sought. Notwithstanding the foregoing, in any regulatory proceeding in which such confidential information is sought and a request for confidential treatment is made to the PUC, Narragansett shall not be responsible in the event that it is determined that the request for treating information in a confidential manner is not warranted. The bidders shall be required to use commercially reasonable efforts to treat all information received from Narragansett in a confidential manner and will not, except as required by law or in a regulatory proceeding, and

Draft 2/25/15

disclose such information to any third party. Bidders are advised that, for any requests of Narragansett for bidder information other than as described in this paragraph, Narragansett will recommend that the party seeking bidder information contact the bidder directly to request such information and negotiate a non-disclosure agreement, as necessary.

Draft 2/25/15

APPENDIX J

UTILITY STANDARD OF CONDUCT