

Deepwater contract criticized

By Peter B. Lord

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WARWICK, R.I. — A national energy expert testified Tuesday that the proposed contract governing how National Grid would buy electricity from a wind farm developed by Deepwater Wind off Block Island sets prices that are high and not commercially reasonable.

Robert McCullough, an energy consultant from Portland, Ore., said the contract is poorly written, replete with errors and lacks key information, such as what kind of turbines Deepwater plans to use.

McCullough and attorney Joseph McGair were hired to intervene in the case by a group of citizens opposed to the power-purchase agreement. The citizens include former Attorney General James E. O'Neil and state Rep. Laurence Ehrhardt, R-North Kingstown.

McCullough said he found the prices in the contract are significantly higher than prices for similar projects either under way or recently completed in Europe.

"The cost figures give the appearance of being reverse-engineered from a required rate of return rather than derived from basic engineering estimates. The rate of return seems high with any reasonable level of leverage, and due diligence by the purchaser was lacking. Finally, the proposed contract's pricing sections are poorly written and several other sections may contain drafting errors," McCullough said in written testimony.

"The scenario is akin to a purchaser buying a house through a real estate agent," McCullough said earlier. "The price is higher than comparable transactions, the agent is receiving a commission on the transaction, no inspection of the house has been undertaken, the creditworthiness of the seller is suspect, and the real estate contract is poorly written with a number of obvious errors."

Following the unusual format of a PUC hearing, most of the testimony from all parties was submitted in writing in recent weeks. Much of it is being discussed in open session only this week, as the PUC is allowing cross-examination by National Grid, Deepwater and opponents such as the Conservation Law Foundation, the private citizens and two manufacturers that are concerned about price increases for electricity.

Jennifer Brooks Hutchinson, a lawyer for National Grid, asked McCullough how he could evaluate the contract if he hadn't studied the one other power-purchase agreement for an ocean wind farm that was negotiated by Bluewater Wind in Delaware.

McCullough said he didn't need to study the Bluewater contract. He said he had 30 years of experience working on power contracts around the country. (On his resumé, he

says his U.S. Senate testimony in 2002 on energy trading by Enron initiated numerous investigations of that infamous corporation.)

Brooks Hutchinson started asking McCullough if repairs could be made to make the contract acceptable. But Michael McElroy, an attorney representing Polytop Corp. in North Smithfield and Toray Plastics in North Kingstown, said repairs are not an option.

Legislation passed by the [General Assembly](#) in its last session and signed by [Governor Carcieri](#) sent the case back to the PUC (which rejected an earlier power agreement), he said, and gave the agency just two choices: accept the agreement, or reject it.

Earlier Tuesday, McElroy read into the record testimony from a National Grid expert in response to his inquiries about how much the higher electric rates would cost his two clients.

The expert said Toray would pay \$304,732 more in 2013, the expected first year of production from the wind farm, and \$7.3 million more over the life of the contract.

Polytop would pay \$46,000 more in the first year and \$1.1 million more over 20 years.

Madison N. Milhous Jr., a National Grid executive, testified that all of the utility's customers would derive some benefits from the cleaner source of power offered by the wind farm.

But when McElroy asked if his clients would derive any direct benefits, Milhous said no. In fact, he acknowledged, they would be paying more. Both are big electricity users.

But Milhous also testified that the typical residential customer would only pay less than 1.7 percent more for their electricity.

Milhous insisted the agreement with Deepwater was commercially reasonable, a key concept that the PUC must evaluate in reaching its decision. And, he said, the present agreement is materially improved over an early agreement that the PUC rejected in March as too expensive.

PUC Chairman Elia Germani said he thought it was interesting that nowhere in its testimony did National Grid address the economic-development issues surrounding the project. State officials insist it will be an economic boom, but McElroy's clients fear it will hurt their businesses.

McCullough said if competitive bids were sought for the project, ratepayers would be ensured of the best prices. But in this case, Deepwater was selected by the Carcieri administration, and terms of the agreement were negotiated later.

He noted that Massachusetts Attorney General Martha Coakley recently negotiated a price for the Cape Wind power from the wind farm being developed off Nantucket that is

10 percent cheaper than the price negotiated by National Grid. It would be 18.7 cents a kilowatt-hour. The price for the Deepwater price is capped at 24.4 cents, with any construction cost savings to be passed on to ratepayers.

The PUC plans to rule on the case Aug. 11.

For more information, go to www.ripuc.org .

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