



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
DIVISION OF LEGAL SERVICES
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April 22, 2013

SENT VIA FIRST CLASS MAIL AND ELECTRONIC MAIL:

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

RE: Dockets 4277/4288 – National Grid’s Request for Amendment to the Current Nameplate Capacity Size Limits for Wind Projects (“Request for Modification”)

Dear Ms. Massaro:

On behalf of the Rhode Island Office of Energy Resources (“OER”), I am writing in opposition to the Request for Modification submitted to the Rhode Island Public Utilities Commission (“RIPUC”) by the Narragansett Electric Company d/b/a National Grid (“National Grid”). National Grid is not statutorily authorized to request an increase in capacity size limits for distributed generation wind turbine projects as codified in RIPUC Docket 4277/4288. OER is currently the only statutorily empowered entity authorized to submit modifications to the "distributed generation contracts program" to the RIPUC for its approval. National Grid’s Request for Modification is an attempt to circumvent the statutory process and should be rejected.

Further, the apparent basis for National Grid’s Request for Modification is without merit. The wind turbine projects submitted by Wind Energy Development, LLC (“WED”) and the Town of Coventry (“Coventry”) involve two (2) separate and distinct projects: one is submitted under R.I. Gen. Laws (“RIGL”) § 39-26.2 (the “WED/Coventry DG Project”) and the other under RIGL § 39-26.4 (the WED/Coventry Net Metering Project)(collectively, the "WED/Coventry DG Project"). If the applications for these projects (“WED/Coventry Applications”) are not viewed as submitted for one project, as is incorrectly being done by National Grid, the issue raised by National Grid is of no effect. Alternatively, even if the WED/Coventry DG Project and the WED/Coventry Net Metering Project are in unison, there is no improper segmentation and WED/Coventry Proposal is permissible.

For the reasons stated herein, the RIPUC should dismiss National Grid’s Request for Modification; and, the RIPUC should review National Grid’s inappropriate rejection of the WED/Coventry Applications and order National Grid to award the WED/Coventry DG Project a distribution generation contract and allow the WED/Coventry Net Metering Project under the separate and distinct net metering program.

I. National Grid does not have authority to request an increase to current nameplate capacity size limits for wind turbine projects.

There is an established statutory process for the approval of nameplate capacity for distribution generation standard contracts. Under RIGL § 39-26.2-12, the Distributed Generation Standard Contract Board ("Board") has the authority to: 1) develop and recommend to the RIPUC for review and approval ceiling prices for standard contracts under the distributed generation standard contracts; and 2) develop and recommend to the RIPUC adjustments up or down to the annual target for standard contracts for the following program year. In accordance with RIGL § 39-26.2-3(3), OER is authorized by statute to serve as "the Board" with the same powers and duties until such a time as the Board is duly constituted. Only the Board, or the OER in the Board's stead, as is currently the case, has the authority to petition the RIPUC to set capacity size limits and/or ceiling prices. National Grid, a non-voting member of the committee supporting the OER's responsibility under RIGL § 39-26.2-3(3), is therefore not authorized to make such a direct request of the RIPUC; and, it is improper for it to do so.

In its Request for Modification, National Grid admits that "[f]or the 2013 enrollment year, the OER did not propose, and thus the [RIPUC] did not approve, a large wind class." However, National Grid takes it upon itself to make such a request as a consequence of its misguided rejection of the WED/Coventry Applications. National Grid is now inappropriately using its wrongful rejection of the WED/Coventry DG Project and the WED/Coventry Net Metering Project to create a forum so as to increase the current nameplate capacity size limits for wind projects, in contravention of the statutorily submitted recommendations made by OER, to the RIPUC for its consideration and ultimate adoption/rejection/modification. National Grid does not have the statutory authority to make such a request of the RIPUC. Its request should be rejected as improper.

II. National Grid has wrongfully rejected the WED/Coventry proposals; these are two (2) separate and distinct projects governed by two (2) separate and distinct statutory provisions.

WED/Coventry submitted two (2) separate applications for each of these separate projects. These applications are attached as Exhibit A for the WED/Coventry DG Project and Exhibit B for the WED/Coventry Net Metering Project.

While the two (2) proposed wind turbines are located on the same parcel of land owned by Coventry, they stand alone operationally – neither is dependent on the other in any manner for its production of alternative energy or for metering. As stated, these two (2) separate projects are governed by independent statutory provisions: 1) a distributed generation project pursuant to RIGL § 39-26.2-1 *et seq.* ("DG Statute"); and, 2) a net metering project pursuant to RIGL § 39-26.4-1 *et seq.* ("NM Statute").

In the case of the WED/Coventry DG Project and the WED/Coventry Net Metering Project, National Grid incorrectly attempts to aggregate these two (2) distinct projects that fall under separate statutory provisions. In its Request for Modification, National Grid argues that the two (2) projects should be aggregated.

Further, National Grid's position appears to be entirely inconsistent with its own practices, to wit: National Grid's own application form for "Generating Facility Expedited/Standard Process Interconnection Application," has separate boxes for each type of project, a "Net Purchase/Sale" or a "Net Metering" project. And, National Grid treated the WED/Coventry Applications as separate and distinct projects for purposes of conducting its two (2) separate interconnect studies.¹

Importantly, the DG Statute and the NM Statute each have different definitions for a "Project." RIGL § 39-26.2-3(6) states: "'Distributed generation project' means a distinct installation of a distributed generation facility." In contrast, RIGL § 39-26.4-2(11) states: "'Project' means a distinct installation of an eligible net metering system." The reason the Rhode Island General Assembly enacted two (2) separate statutes is that it intended to keep separate these two (2) distinct approaches of encouraging the development of renewable energy. To permit National Grid to do as it has attempted to do in aggregating and denying the applications, is to simply thwart the legislative scheme envisioned by the Rhode Island General Assembly.

Moreover, RIGL § 39-26.4-4 provides that the NM Statute "shall be construed liberally in aid of its declared purpose." The NM Statute's declared purposes, mirroring the purposes set forth in the DG Statute, are "to facilitate and promote installation of customer-sited, grid-connected generation of renewable energy; to support and encourage customer development of renewable generation systems; to reduce environmental impacts; to reduce carbon emissions that contribute to climate change by encouraging the local siting of renewable energy projects; to diversify the state's energy generation sources; to stimulate economic development; to improve distribution system resilience and reliability; and to reduce distribution system costs." See RIGL § 39-26.4-1. National Grid's misguided aggregation of the WED/Coventry DG Project with the WED/Coventry NM Project is a rejection thereof; and, its later obfuscation of these statutory purposes in its Request for Modification is an attempt to defeat the legislative will of the Rhode Island General Assembly.

The WED/Coventry Applications are separate and distinct; one is a net metering project to offset the usage of Coventry, while the other is a distributed generation project. Each must be reviewed as distinct and rise or fall on its own merits. It would appear that each wind turbine should be given the capacity of 1.5 MW as accorded under the applicable RIPUC docket pertaining to it and not considered in a cumulative manner. Thus, National Grid's improper rejection of the WED/Coventry Applications should be overturned; and, the RIPUC should order National Grid to award the projects under the two (2) separate and distinct renewable energy programs.

¹ The fact that there are two (2) separate boxes for each project and that National Grid conducted two (2) separate interconnect studies, but is now arguing that the two (2) separate projects should be aggregated in this case, raises questions of why National Grid has two (2) separate categories on its form and whether it has acted in good faith and in a manner consistent with its past practice.

III. The WED/Coventry DG Project and the WED/Coventry Net Metering Project do not constitute improper segmentation.

In its PUC filing, National Grid states, correctly, that the DG Statute contains a non-segmentation provision (National Grid's April 12 letter, page 2, last paragraph); and, National Grid states, correctly, that "[t]o allow a larger [DG] project to be segmented would run completely contrary to this statutory restriction." *Id.* Importantly, that is not what is happening with regard to the WED/Coventry Proposal.

Simply put, the WED/Coventry Proposal is not for a single large distributed generation project that is being improperly segmented into two separate smaller distributed generation projects in order to do an end-run around the DG Statute's anti-segmenting provision. Instead, the WED/Coventry Proposal is for a single net metering project standing next to a single distributed generation project. The DG Statute, by its plain language, permits just such an arrangement: "A distributed generation project that is also being employed by a customer for net metering purposes may submit an application to sell the excess output from its distributed generation project." RIGL § 39-26.2-6(g). That section of the DG Statute goes on to explain exactly how to handle the Renewable Energy Certificates "in such case."

Under this analysis, the WED/Coventry Proposal is the precise case that was contemplated by the DG Statute. This is, in the words of the Statute, "[a] distributed generation project that is also being employed by a customer for net metering purposes" No improper segmenting is being done. The WED/Coventry Proposal -- exactly as the law anticipated -- contains separate a net metering turbine (to be governed by the State's NM Statute) and a separate distributed generation turbine (to be governed by the State's DG Statute). Thus, even if the two separate projects are considered as one, the WED/Coventry Application is still permissible.

IV. Conclusion

The Rhode Island Office of Energy Resources ("OER") respectfully requests the Rhode Island Public Utilities Commission ("Commission") to reject Narragansett Electric Company d/b/a National Grid ("National Grid") improper request to increase capacity for wind turbine projects under the 2013 DG program. Further, OER respectfully requests the Commission to either order National Grid to treat the applications of Wind Energy Development, LLC and the Town of Coventry as separate and distinct for two (2) different projects and to award the same and to not constitute improper segmentation.

Sincerely,



Daniel W. Majcher, Esq.

DWM/njr

Enclosure

- c. Docket 4277/4288 Service List
Marion Gold, Pd.D, Commissioner
Christopher Kearns, Chief Program Development
Steve Scialabba, Chief Accountant, Division of Public Utilities and Carriers
Thomas R. Teehan, Esq.

The Narragansett Electric Company
Standards for Connecting Distributed Generation

Generating Facility Expedited/Standard Process Interconnection Application

Contact Information

Date Prepared: 1/3/2012

Legal Name and address of Interconnecting Customer (or, Company name, if appropriate)

Customer or Company Name: Wind Energy Development Contact Name: Mark DePasquale

Mailing Address: 1130 Ten Rod Road, Suite E102

City: North Kingstown State: RI Zip Code: 02852

Telephone (Primary): 401-667-0431 Telephone (Secondary):

Fax: 401-295-4944 E-Mail (s): MDePasquale@windenergydevelopmentllc.com

Alternative Contact Information (e.g. system installation contractor or coordinating company)

Name: David Colombo, Power Engineers LLC

Mailing Address: 37 Fox Den Road

City: Kingston State: MA Zip Code: 02364

Telephone (Primary): 508-612-0382 Telephone (Secondary):

Fax: 781-936-8641 E-Mail (s): Dave@PowerEngineersLLC.com

Ownership (include % ownership by any electric utility): Wind Energy Development

Generating Facility Information

Address of Facility (if different from above): Piggy Lane, off of Perry Hill Road, Turbine #1 41d40'32.63"N, 71d42'26.92"W

City: Coventry State: RI Zip Code: 02816

Electric Service Company: National Grid Account Number: new Meter Number: new

Work Request Number (For Upgrades or New Service): 14318708

Type of Generating Unit: Synchronous Induction Inverter

Manufacturer: Goldwind Model: GW82-1500

Nameplate Rating: 1500 (kW) 0 (kVAr) 690 (Volts) Single or Three Phase

Prime Mover: Fuel Cell Recip Engine Turbine Photo Voltaic Other Specify:

Energy Source: Solar Wind Hydro Diesel Natural Gas Fuel Oil Other Specify:

For Solar PV provide system DCC-STC rating: (kW) Requesting Feasibility Study? Yes No

Need an air quality permit from RIDEM? Yes No Not Sure

If "yes", have you applied for it? Yes No IEEE1547.1(UL1741) Listed? Yes No

Generating system already exists on current account? Yes No

Planning to Export Power? Yes No A Cogeneration Facility? Yes No

Anticipated Export Power Purchaser: National Grid

Export Form: Simultaneous Purchase/Sale Net Purchase/Sale Net Metering Other

Specify:

Est. Install Date: 8/2013 Est. In-Service Date: 10/2013 Agreement Needed By: 2/15/2013

Application Process

(Submitting on DG Plan coming out in February 2013)

The Narragansett Electric Company
Standards for Connecting Distributed Generation

I hereby certify that, to the best of my knowledge, all of the information provided in this application is true:

Interconnecting Customer Signature: [Signature] Title: Member Date: 1/8/13

National Grid Signature: [Signature] Title: CSR Date: 01/28/13

The Narragansett Electric Company
Standards for Connecting Distributed Generation

Generating Facility Expedited/Standard Process Interconnection Application

Contact Information

Date Prepared: 1/3/2012

Legal Name and address of Interconnecting Customer (or, Company name, if appropriate)

Customer or Company Name: Wind Energy Development Contact Name: Mark DePasquale

Mailing Address: 1130 Ten Rod Road, Suite E102

City: North Kingstown State: RI Zip Code: 02852

Telephone (Primary): 401-667-0431 Telephone (Secondary):

Fax: 401-295-4944 E-Mail (s): MDePasquale@windenergydevelopmentllc.com

Alternative Contact Information (e.g. system installation contractor or coordinating company)

Name: David Colombo, Power Engineers LLC

Mailing Address: 37 Fox Den Road

City: Kingston State: MA Zip Code: 02364

Telephone (Primary): 508-612-0382 Telephone (Secondary):

Fax: 781-936-8641 E-Mail (s): Dave@PowerEngineersLLC.com

Ownership (include % ownership by any electric utility): Wind Energy Development

Generating Facility Information

Address of Facility (if different from above): Piggy Lane, off of Perry Hill Road, Turbine #2 41d40'19.88"N, 71d42'20.14"W

City: Coventry State: RI Zip Code: 02816

Electric Service Company: National Grid Account Number: 73142-64006 Meter Number: new

Work Request Number (For Upgrades or New Service): 14422857

Type of Generating Unit: Synchronous Induction Inverter

Manufacturer: Goldwind Model: GW82-1500

Nameplate Rating: 1500 (kW) 0 (kVAr) 690 (Volts) Single or Three Phase

Prime Mover: Fuel Cell Recip Engine Turbine Photo Voltaic Other Specify:

Energy Source: Solar Wind Hydro Diesel Natural Gas Fuel Oil Other Specify:

For Solar PV provide system DCC-STC rating: (kW) Requesting Feasibility Study? Yes No

Need an air quality permit from RIDEM? Yes No Not Sure

If "yes", have you applied for it? Yes No IEEE1547.1(UL1741) Listed? Yes No

Generating system already exists on current account? Yes No

Planning to Export Power? Yes No A Cogeneration Facility? Yes No

Anticipated Export Power Purchaser: Town of Coventry via Net Metering

Export Form: Simultaneous Purchase/Sale Net Purchase/Sale Net Metering Other

Specify:

Est. Install Date: Est. In-Service Date: 8-2013 Agreement Needed By: 2-15-2013

Application Process

The Narragansett Electric Company
Standards for Connecting Distributed Generation

I hereby certify that, to the best of my knowledge, all of the information provided in this application is true;

Interconnecting Customer Signature: [Signature] Title: Member Date: 1/8/13

National Grid Signature: [Signature] Title: CSR Member Date: 02/25/13