

November 3, 2014

BY HAND DELIVERY & ELECTRONIC MAIL

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

**RE: Docket 4483 - Wind Energy Development, LLC and ACP Land, LLC
Petition for Dispute Resolution Relating to Interconnection
National Grid's Comments in Support of its Settlement Proposal and
Response to Petitioners' Letter Dated October 23, 2014**

Dear Ms. Massaro:

National Grid¹ submits these comments in support of its proposal to settle and resolve the issues in this docket. In this letter, National Grid also responds to Wind Energy Development, LLC's (WED) and ACP Land, LLC's (ACP) (collectively, Petitioners) letter dated October 23, 2014 (Letter).

On September 12, 2014, National Grid submitted to the Rhode Island Public Utilities Commission (PUC) a proposal to resolve the issues in this docket. National Grid's proposal to submit private letter ruling (PLR) requests to the Internal Revenue Service (IRS) was designed to address the Petitioner's immediate complaint in this docket and provide an avenue for a future policy that can be applied uniformly and fairly to all eligible customers who pursue similar projects in the future. National Grid believes that it is vital to obtain clarity from the IRS on the disputed issues in this docket, and that its proposal to settle and resolve these issues balances the risks and factors involved and is fair and reasonable for customers. Finally, National Grid disagrees with Petitioners' assertions concerning the Company's net metering policy, and believes that these arguments are rooted in Petitioners' misunderstanding of the policy. National Grid's responses to Petitioners' concerns raised in the Letter are explained in more detail below.

Content of Private Letter Ruling Requests

As National Grid has previously explained, it would like to work with Petitioners to identify one of their projects to use for a PLR request and it will incorporate reasonable edits from Petitioners on the content of that PLR request. In addition, before it submits any PLR requests to the IRS as contemplated by the pending proposal before the PUC, National Grid will

¹ The Narragansett Electric Company d/b/a National Grid (National Grid or the Company).

share the contents of the PLR requests it files with the Rhode Island Division of Public Utilities and Carriers (Division). Nonetheless, Petitioners continue to insist that they must have final say over the content of any PLR request that the Company files. The Company objects to this unreasonable demand because it (and not Petitioners) is the taxpayer, and the PLR request would seek guidance from the IRS concerning the proper reporting of transactions on National Grid’s tax returns. Petitioners, however, have asserted that they (and not National Grid) actually pay the tax. This is incorrect. National Grid pays the tax on these transactions. It is well-settled federal tax law that when a utility customer reimburses the utility for the cost of an interconnection, a line extension, or any associated equipment, the contribution is taxable income to the utility and the utility must pay federal taxes on the transaction. Such reimbursements are referred to as Contributions in Aid of Construction (CIAC).

In short, the key question is whether National Grid should report Petitioners’ payment as income on its income tax return. It is National Grid and not the Petitioners that must sign the PLR request for IRS guidance on how to report the CIAC transaction under the pains and penalties of perjury. If a PLR request does not accurately portray the transaction, any PLR ruling will not protect the transaction or the Company from future IRS audit adjustments, which may include tax, interest, and penalties. Accordingly, while the Company is amenable to incorporating reasonable edits from a customer whose project is the subject of any PLR request that the Company will file, the Company must have final say of the contents of the PLR request.

National Grid’s main goal with the proposal is to obtain clarity from the IRS concerning whether contributions from electric generators that interconnect with the Company’s electric distribution facilities are covered by the safe harbor provided in IRS Notices 88-129 and 2001-82. National Grid believes that its proposal, which the Division supports, is fair and reasonable to all customers and the PLR costs should be borne by National Grid’s customers, if the PUC agrees that the PLR requests are necessary. In their Letter, Petitioners suggest that PLR requests are not necessary to resolve the disputes in this docket. National Grid disagrees and submits that given the parties’ conflicting interpretations of existing IRS notices, PLR requests are vital to obtain clarity from the IRS on the disputed issues in this docket.

Net Metering Issues Raised Petitioners’ Letter

In their Letter, Petitioners raise concerns with National Grid’s response to PUC 2-4. In doing so, Petitioners make several inaccurate claims concerning the Company’s net metering billing practices. Since the Company was unable to provide clarification to the Petitioners’ satisfaction during a conference call it held on October 16, 2014 with Petitioners on this issue, the Company will attempt to provide further clarification here.

In their Letter (*see* p.2), Petitioners criticize National Grid’s net metering policy by stating in part that:

Petitioners submit that in Rhode Island, even net metering customers that fully net their production against on-site load would be eligible for the exemption. National Grid’s net metering policy (with which Petitioners do not agree) is to treat all net metering customers as if they are sending produced energy to the grid (for which they are compensated at the net metering rate), and then, sell them energy (at the full retail rate) as a separate transaction. Despite Petitioners’ contention that production and consumption should simply be netted at the meter (thereby offsetting production versus consumption simply on a kWh basis before any charges are assessed or credits are applied to the account), National Grid does not handle net metering this way evidently in part because its billing system is not capable.

Petitioners are incorrect. If an electric generating project is located at a customer site, and most of the electricity produced is consumed by the customer at that location, the Company does net the on-site generation against the on-site usage. Moreover, the Company’s billing system calculates the net electricity used pursuant to the Company’s net metering tariff (RIPUC 2099). The resulting monthly bill for a net metering customer will reflect either: (1) an amount due for on-site use, after netting out the on-site generation; or (2) a credit if the on-site use was less than the on-site generation. The Company calculates any credit for excess generation pursuant to the Company’s net metering tariff.

In sum, National Grid believes that its settlement proposal reflects the Company’s good faith efforts to resolve the issues in this docket by addressing Petitioners’ concerns while providing an avenue for a future policy development that can be applied uniformly and fairly to all eligible customers and projects in the future.

National Grid thanks the PUC for the opportunity to provide these comments.

Sincerely,



Raquel J. Webster

Enclosures

cc: Docket 4483 Service List
Jon Hagopian, Esq.
Steve Scialabba, Division

Certificate of Service

I hereby certify that a copy of the cover letter and/or any materials accompanying this certificate was electronically transmitted to the individuals listed below. Copies of this filing will be hand delivered to the RI Public Utilities Commission and to the RI Division of Public Utilities and Carriers.



November 3, 2014

**Docket No. 4483 – Wind Energy Development LLC & ACP Land, LLC –
Petition for Dispute Resolution Relating to Interconnection
Service List updated 7/29/14**

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