

February 27, 2015

BY HAND DELIVERY AND ELECTRONIC MAIL

Luly E. Massaro, Commission Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI02888

RE: Docket 4536-A - Tariff Advice Filing for Renewable Energy Growth Program and Solicitation and Enrollment Process Rules
Responses to PUC Data Requests – Set 2

Dear Ms. Massaro:

On behalf of National Grid¹, I am enclosing the Company's responses to the second set of data requests issued by the Rhode Island Public Utilities Commission in the above-referenced proceeding.

Thank you for your attention to this matter. If you have any questions concerning this filing, please contact me at 781-907-2121.

Very truly yours,



Raquel J. Webster

Enclosures

cc: Docket 4536-A Service List
Steve Scialabba, Division
Leo Wold, Esq., Division

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

Service List

I hereby certify that a copy of the cover letter and any materials accompanying this certificate was electronically transmitted to the individuals listed below.

Copies of this filing are being hand delivered to the Rhode Island Public Utilities Commission and to the Rhode Island Division of Public Utilities and Carriers.



Joanne M. Scanlon

February 27, 2015

Date

Docket No. 4536-A National Grid Tariff Advice Filing for Renewable Energy Growth Program (RE Growth Program) and Solicitation & Enrollment Process Rules for 2015

Docket No. 4536-B RI Distributed Generation Board (DG Board) Report and Recommendation Regarding 2015 Renewable Energy Growth Classes, Ceiling Prices and Targets

Service List updated 1/9/15

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COMM 2-1

Request:

- a) Please confirm the word "program" in R.I.G.L. §39-26.6-19 (Paragraph b, first sentence) refers to energy efficiency programs and not the Renewable Energy Growth Program.
- b) Please confirm the word "proposal" in R.I.G.L. §39-26.6-19 (Paragraph b, last sentence) refers to a proposal by the Company to designate up to one-half of the megawatts for small and medium solar enrollments for eligibility in a coordinated energy efficiency-solar incentive program proposal and not the Renewable Energy Growth Proposal.
- c) Does the Company anticipate filing an energy efficiency-solar incentive proposal as part of its annual energy efficiency filing or as a separate filing? Also, when would such a proposal be made?

Response:

- a) The word "program" in R.I. Gen. Laws § 39-26.6-19 (paragraph b, first sentence) refers to any program developed under this section for incentivizing customers to implement certain energy efficiency measures or meet certain efficiency standards while installing solar PV as a coordinated energy efficiency and solar program offering.
- b) The word "proposal" in R.I. Gen. Laws § 39-26.6-19 (paragraph b, last sentence) refers to a proposal relating to the program described in part a) above.
- c) The Company anticipates that any energy efficiency-coordinated solar PV program would be submitted to the PUC as part of an annual RE Growth Program filing, due on November 15, to establish the envisioned set aside of up to half of the 3 MW carve-out for small-scale and medium-scale solar, and proposed in the applicable Energy Efficiency Program Plan (EEPP) to the extent the EEPP would fund any aspects of the joint program or benefit from increased savings from such a program. The EEPP is filed on November 1 each year. Currently, this program has not been developed and these details are not yet established.

COMM 2-2

Request:

The following question refers to the Company's response to Comm 1-12(d).

Given the language of the statute, and repeated references to DG standard contracts, a strong argument can be made that the statutory requirements regarding performance guarantee deposits contained in R.I.G.L. §39-26.2-7 apply to DG standard contracts and not to the REG tariff and enrollment rules. Please provide a full and complete explanation as to why you believe that §39-26.2-7 applies to the REG tariff and not to the former DG standard contracts.

Response:

Section 39-26.6-5(a) of the Renewable Energy Growth Program statute requires the tariffs to include the non-price conditions set forth in R.I. Gen. Laws § 39-26.2-7(2)(i) – (vii) (the Rhode Island Distributed Generation Standard Contracts Act). Section 39-26.2-7(2)(ii) of the Distributed Generation Standard Contracts Act requires the distributed generation facility owner to make a performance guarantee deposit, and § 39-26.2-7(2)(iv) requires that the performance guarantee deposit be forfeited and credited to all distribution customers in rates if the project does not reach the applicable deadline for output.

Section 39-26.6-11 of the Renewable Energy Growth Program statute requires the program to be administered solely through tariffs. As such, the non-price conditions set forth in the Distributed Generation Standard Contracts Act should be translated into tariff provisions, rather than "contract" provisions. Additionally, § 39-26.6-5(a) of the Renewable Energy Growth Program statute went as far as to extend the deadlines required under the Distributed Generation Standard Contracts Act. These deadlines are used solely to administer the refund or forfeiture of the performance guarantee deposit as required.

The relevant statutory provisions provide as follows: Section 39-26.6-5(a) of the Renewable Energy Growth Program statute states that "[t]he tariffs shall include the non-price conditions set forth in §§ 39-26.2-7(2)(i) – (vii) for small distributed generation projects (other than small and medium scale solar), and large distributed generation projects; provided, however, that the time periods for such projects to reach ninety percent (90%) of output shall be extended to twenty-four (24) months (other than eligible anaerobic digestion projects which shall be thirty-six (36) months and eligible small-scale hydro which shall be forty-eight (48) months). (emphasis added);"

Section 39-26.2-7(2)(ii) of the Distributed Generation Standard Contracts Act requires "the distributed generation facility owner to make a performance guarantee deposit to the electric

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distribution company of fifteen dollars (\$15.00) for small distributed generation projects or twenty-five dollars (\$25.00) for large distributed generation projects for every renewable energy certificate estimated to be generated per year under the contract, but at least five hundred dollars (\$500) and not more than seventy-five thousand dollars (\$75,000), paid at the time of contract execution;”

Section 39-26.2-7(2)(iv) provides “that if the distributed generation facility has not generated the output proposed in its enrollment application within eighteen (18) months after execution of the contract, the contract is automatically voided and the performance guarantee is forfeited. Any forfeited performance guarantee deposits shall be credited to all distribution customers in rates and not retained by the electric distribution company (emphasis added);”

Section 39-26.6-11. Power Purchase Agreements Not Required. -- The distributed generation growth program shall be implemented and administered exclusively through the tariff structure and procedures set forth in this chapter, and the electric distribution company shall not be required to execute power purchase agreements for the procurement of the renewable energy distributed generation capacity requirements set forth in this chapter.

COMM 2-3

Request:

Assuming that the statutory requirements of R.I.G.L. §39-26.2-7 apply to DG Standard contracts, and not to the REG tariff and enrollment rules, please answer the following questions:

- a) Isn't it true that the following provision is not mandated by statute?

“If the Output Certification is not received within the specified timeframe, The Certificate of Eligibility will be voided and the Deposit will be forfeited.”
(Non-Residential Tariff, Section 3(d), Sheet 4 filed 02/09/15)

- b) The Company states in Comm 1-12(d) that R.I.G.L. §39-26.2-7 (DG Standard Contract Act) does not provide an exception to the forfeiture of the deposits for force majeure events. Cite the legal authority for the Company's position that the statutory provisions of the legacy DG Standard contract program may be applied to the new REG program, particularly in light of the following statutory mandate, which specifically requires that the REG program *shall be* implemented and administered *exclusively through Chapter 26.6* (Renewable Energy Growth Program).

“The distributed generation growth program shall be implemented and administered *exclusively through the tariff structure and procedures set forth in this chapter*, and the electric distribution company shall not be required to execute power purchase agreements for the procurement of renewable energy distributed generation capacity requirements set forth in this chapter.” R.I.G.L. §39-26.6-11 (emphasis added).

Response:

Please see the Company's response to COMM 2-2.

COMM 2-4

Request:

Referring to certificates of eligibility,

- a) True/False. According to R.I.G.L. §39-26.6-20, there are 2 certificates of eligibility awarded to commercial and large solar projects. The first COE is awarded by the Company. The second COE is awarded by the Commission.
- b) True/False. Paragraphs 2(e) and Paragraph 3(d) of the non-residential tariff collectively allow the Company to void a COE previously awarded by the Commission to a commercial or large solar project.

Response:

- a) False. For commercial-scale and large-scale solar, as well as all other distributed-generation (DG) projects (other than small-scale solar and medium-scale solar), the Company will provide certificates of eligibility (COEs) to selected DG projects, which are subject to confirmation of approval by the PUC. The Company must then file with the PUC the list of selected projects and corresponding pricing information. The Renewable Energy Growth Program statute provides that, within 60 days of receipt of the list, the PUC shall issue an order awarding COEs to the DG projects. These COEs are referred to as "PUC awarded certificates" in the Renewable Energy Growth Program statute to distinguish them from COEs issued by the Company to selected small-scale solar and medium-scale solar projects, which do not require PUC confirmation of approval. In the Renewable Energy Growth Program statute, COEs provided by the Company to selected small-scale solar and medium-scale solar projects are referred to as "distribution company certificates".
- b) True. As noted in the Company's response to COMM 2-2, § 39-26.6-5(a) of the Renewable Energy Growth Program statute requires the Renewable Energy Growth Program tariffs to include the non-price conditions set forth in § 39-26.2-7(2)(i) – (vii) of the Distributed Generation Standard Contracts Act. Section 39-26.2-7(2)(ii) of the Distributed Generation Standard Contracts Act requires the distributed generation facility owner to make a performance guarantee deposit and § 39-26.2-7(2)(iv) requires that the performance guarantee deposit be forfeited and credited to all distribution customer in rates if the project does not reach the applicable deadline for output. Accordingly, the Company's non-residential tariff (specifically, Section 3(d)), is consistent with the language of § 39-26.2-7(2)(iv) because it states that a COE previously awarded by the PUC to a commercial or large-scale solar project shall be voided automatically if the project does not provide the Output Certification within: (1) 48 months for Small DG Projects using hydropower; (2) 36

The Narragansett Electric Company

d/b/a National Grid

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months for anaerobic digestion; or (3) 24 months for all other DG Projects. In all instances where a project fails to meet the deadline for operation, the COE would be automatically voided as required by law and not at the discretion of the Company.

COMM 2-5

Request:

Please reconcile the Company's response to COMM 1-12 (b) and (c). Comm 1-12(b) states the Company would not unreasonably without consent to termination for circumstances beyond the control of the Applicant. Comm 1-12(c) states that in the event a project is destroyed by hurricane, the PGD would be forfeited. Collectively these two responses imply that a hurricane is within the reasonable control of an applicant. Please explain the basis for your interpretation that the tariff would allow forfeiture of deposit in the event of a hurricane.

Response:

The Company's responses to COMM 1-12(b) and COMM 1-12(c) are consistent with the statutory construct of the Renewable Energy Growth Program statute overall and R.I. Gen. Laws § 39-26.2-7(2)(iv) specifically. The question appears to be based on the premise that the Company will be implicitly penalizing an Applicant that cannot construct its project within the time allowed by the tariff by not refunding their performance guarantee deposit, even if the reason for failure to construct was related to a severe weather event. The Company disagrees with that premise, given that R.I. Gen. Laws § 39-26.2-7(2)(iv) provides no exceptions to the forfeiture of the performance guarantee deposit for nonperformance, including severe weather events such as a hurricane. Accordingly, the Company has no discretion but to void the tariff for a customer that fails to construct its project once the Certificate of Eligibility has been awarded, retain the performance guarantee deposit, and credit its customers with the deposit amount. The Company would not be attempting to penalize an Applicant in this circumstance; it would be enforcing the tariff consistent with state law. Notably, § 39-26.6-5(e) provides the PUC with exclusive jurisdiction over the enforcement and implementation of the tariffs and rules. Therefore, pursuant to Section 10 of the Non-Residential Tariff, disputes over the forfeiture of a performance guarantee deposit can be brought to the PUC for resolution.

The provision in the third sentence in Section 11 of the Non-Residential Tariff, which states that the Company will not unreasonably delay or withhold its consent to an Applicant's request to terminate its obligations under the tariff is intended to facilitate a customer's ability to relieve itself of its tariff obligation to complete construction of its project in the event the customer determines that it cannot do so. Termination would allow the Applicant to reapply for incentives with the same project (if eligible).

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COMM 2-6

Request:

Referring again to 1-12, in the scenario proposed, please confirm that if an applicant elected not to rebuild a project, the developer would still have to forfeit the deposit.

Response:

Please refer to the Company's response to COMM 2-5. The Company does not have discretion over the forfeiture of the performance guarantee deposit. If the Applicant elected not to rebuild the project and meet the Output Certification deadline of the Certificate of Eligibility as issued for that project, the deposit would be forfeited.

COMM 2-7

Request:

Cite the statutory authority, if any, for the following statement, "In order to receive PBI payments under this Tariff, such projects will have 24 months after being awarded a COE to achieve operation at expected availability and capacity and meet all other requirements under this Tariff. (Non-residential Tariff, Paragraph 3(g), Sheets 4-5) If there is no statutory authority, what is the basis for the 24 month deadline for operation?"

Response:

Section 39-26.6-5(a) of the Renewable Energy Growth Program statute requires projects (other than small-scale and medium-scale solar) to reach certain deadlines for operation as a non-price condition under the tariff. The statute also provides that the non-price conditions for small-scale and medium-scale solar shall take into account the different circumstances for smaller distributed generation. While small-scale and medium-scale solar projects are not required to make performance guarantee deposits, the Company has required these smaller projects to reach operation under the tariff within 24 months. Based on the Company's experience, 24 months provides adequate time for solar projects less than 250 kW to be constructed and operational under the tariff. Because these projects are not required to pay a performance guarantee deposit, without an incentive to become operational within a specific period of time, these projects could potentially sit idle in the project queue taking up capacity that could be otherwise utilized. This requirement ensures the program capacity is allocated to projects that are ready to be deployed and ensures the program can be managed in a way that frees up capacity to be used in later enrollments if projects fail to meet the deadline. Notably, projects that do not reach the 24-month deadline would be able to participate in any remaining future enrollments.