

December 31, 2015

VIA HAND DELIVERY & ELECTRONIC MAIL

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

**RE: Docket 4568 – The Narragansett Electric Company d/b/a National Grid
Review of Electric Distribution Rate Design Pursuant to R.I. Gen. Laws § 39-26.6-24
National Grid's Objection to Renewed Motion for Summary Disposition and
Memorandum of Law in Support of Objection**

Dear Ms. Massaro:

On behalf of National Grid¹, I enclose ten (10) copies of the Company's Objection to Renewed Motion for Summary Disposition by Green Development, LLC d/b/a Wind Energy Development, LLC. Also enclosed are ten (10) copies of the Company's Memorandum of Law in support of its Objection.

Thank you for your attention to this transmittal. If you have any questions concerning this filing, please contact me at 781-907-2153.

Very truly yours,



Celia B. O'Brien

Enclosures

cc: Docket 4568 Service List
Leo Wold, Esq.
Jon Hagopian, Esq.
Steve Scialabba

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

Certificate of Service

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

The paper 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.



Celia B. O'Brien, Esq.

December 31, 2015

Date

**Docket No. 4568 National Grid's Rate Design Pursuant to R.I. Gen. Laws Sec 39-26.6-24
Service List updated 12/30/15**

Parties' Name/Address	E-mail	Phone
National Grid Celia B. O'Brien, Esq. National Grid 280 Melrose Street Providence, RI 02907	Celia.obrien@nationalgrid.com ;	781-907-2153
	Joanne.scanlon@nationalgrid.com ;	
	Theresa.burns@nationalgrid.com ;	
	Jeanne.lloyd@nationalgrid.com ;	
	Ian.springsteel@nationalgrid.com ;	
	Timothy.roughan@nationalgrid.com ;	
	Peter.zschokke@nationalgrid.com ;	
Nick Horan, Esq. Jack Habib, Esq. Keegan Werlin LLP	NHoran@keeganwerlin.com ;	
	JHabib@keeganwerlin.com ;	
Division of Public Utilities & Carriers (Division) Leo Wold, Esq. Dept. of Attorney General 150 South Main St. Providence, RI 02903	Lwold@riag.ri.gov ;	401-222-2424 Ext. 2218
	Jon.hagopian@dpuc.ri.gov ;	
	Jmunoz@riag.ri.gov ;	
	Dmacrae@riag.ri.gov ;	
	Steve.scialabba@dpuc.ri.gov ;	
	Al.contente@dpuc.ri.gov ;	
Richard Hahn Daymark Energy Associates 1 Washington Mall, 9th floor Boston, MA 02108	rhahn@daymarkea.com ;	
	apereira@daymarkea.com ;	
Office of Energy Resources (OER) Daniel W. Majcher, Esq. Dept. of Administration Division of Legal Services One Capitol Hill, 4 th Floor Providence, RI 02908	Daniel.majcher@doa.ri.gov ;	401-222-8880
Marion Gold, Commissioner Office of Energy Resources One Capitol Hill, 4 th Floor Providence, RI 02908	Marion.gold@energy.ri.gov ;	401-574-9113
	Nicholas.Ucci@energy.ri.gov ;	
	Danny.musher@energy.ri.gov ;	
	Christopher.earns@energy.ri.gov ;	

Conservation Law Foundation (CLF) Jerry Elmer, Esq. Conservation Law Foundation 55 Dorrance Street Providence, RI 02903	jelmer@clf.org ;	401-351-1102 Ext. 2012
Acadia Center Mark E. LeBel Acadia Center 31 Milk Street Suite 501 Boston, MA 02108	mlebel@acadiacenter.org ;	617-742-0054 Ext. 104
	aanthony@acadiacenter.org ;	
	lmalone@acadiacenter.org ;	
Quentin Anthony, Attorney at Law 41 Long Wharf Mall Newport, RI 02840	qanthony@verizon.net ;	401-847-1008
Energy Efficiency Resources Mgmt. Council (EERMC) Marisa Desautel, Esq. Law Office of Marisa Desautel, LLC 55 Pine St. Providence, RI 02903	marisa@desautelesq.com ;	401-477-0023
Scudder Parker 128 Lakeside Avenue Suite 401 Burlington, VT 05401	sparker@veic.org ;	
Walmart Melissa M. Horne, Esq. Higgings, Cavanagh & Cooney, LLP 123 Dyer St. Providence, RI 02903	mhorne@hcc-law.com ;	401-272-3500
Stephen W. Chriss, Sr. Mgr. Regulatory Analysis Walmart 2001 Southeast 10 th St. Bentonville, AR 72716-5530	Stephen.chriss@walmart.com ;	479-204-1594
New England Clean Energy Council (NECEC) Narragansett Bay Commission (NBC) Joseph A. Keough, Jr., Esq. Keough & Sweeney 41 Mendon Ave. Pawtucket, RI 02861	jkeoughjr@keoughsweeney.com ;	401-724-3600
Sue AnderBois Janet Besser New England Clean Energy Council	sanderbois@necec.org ;	
	jbesser@necec.org ;	
Karen Giebink Jim McCaughey Narragansett Bay Commission	KGiebink@narrabay.com ;	
	jmccaughey@narrabay.com ;	
Wind Energy Development (WED) Seth H. Handy Handy Law, LLC 42 Weybosset Street Providence, RI 02903	seth@handylawllc.com ;	401-626-4839

Michelle Carpenter Wind Energy Development, LLC 3760 Quaker Lane North Kingstown, RI 02852	md@wedenergy.com ;	
The Alliance for Solar Choice (TASC) Michael McElroy, Esq. Leah J. Donaldson, Esq. Schacht & McElroy PO Box 6721 Providence, RI 02940-6721	Michael@McElroyLawOffice.com ;	401-351-4100
	Leah@McElroyLawOffice.com ;	
Thadeus B. Culley, Esq. Keyes, FOX & Weidman LLP 401 Harrison Oaks Blvd., Suite 100 Cary, NC 27517	tculley@kfwlaw.com ;	510-314-8205
Gracie Walovich Carine Dumit Katie Sheldon Evan Dube	gracie@allianceforsolarchoice.com ;	
	cdumit@solarcity.com ;	
	ksheldon@solarcity.com ;	
	evand@sunrunhome.com ;	
Dept. of the Navy (Navy) Allison Genco, Esq. NAVFAC HQ- Building 33 Dept. of the Navy 1322 Patterson Ave SE, Suite 1000 Washington Navy Yard, D.C. 20374-5065	allison.genco@navy.mil ;	
Dr. Kay Davoodi, P.E., Director Utility Rates and Studies Office NAVFAC HQ- Building 33 Dept. of the Navy 1322 Patterson Ave SE, Suite 1000 Washington Navy Yard, D.C. 20374-5065	Khojasteh.davoodi@navy.mil ;	
Larry R. Allen, Public Utilities Specialist Dept. of the Navy	Larry.r.allen@navy.mil ;	
Maurice Brubaker P.O. Box 412000 St. Louis, Missouri 63141-2000 636-898-6726	mbrubaker@consultbai.com ;	636-898-6726
Ali Al-Jabir 5106 Cavendish Drive Corpus Christi, TX 78413	aaljabir@consultbai.com ;	361-994-1767
Energy Development Partner Christian F. Capizzo, Counsel Shechtman Halperin Savage, LLP 1080 Main St. Pawtucket, RI 02860	ccapizzo@shslawfirm.com ;	401- 272-1400
Frank A. Epps, Managing Director, USA Energy Development Partners, LLC 51 Industrial Drive North Smithfield, RI 02896	frank@edp-energy.com ;	401-884-2248

Hecate Energy & CME Energy Alan Shoer, Esq. Adler Pollock & Sheehan, Inc. One Citizens Plaza, 8 th Floor Providence, RI 002903	ashoer@apslaw.com ;	401-274-7200
Nicholas Bulling Gabriel Wapner Hecate Energy, LLC 115 Rosa Parks Blvd. Nashville, TN 37203	NBullinger@HecateEnergy.com ; Gwapner@HecateEnergy.com ;	
CME Energy, LLC William J. Martin, President Kevin Stacom CME Energy, LLC 20 Park Plaza, Suite #400 Boston, MA 02116	Wmartin@cme-energy.com ; Kevin.stacom@gmail.com ;	
File an original & 9 copies w/ PUC: Luly E. Massaro, Commission Clerk Public Utilities Commission 89 Jefferson Blvd. Warwick, RI 02888	Luly.massaro@puc.ri.gov ; Cynthia.wilsonfrias@puc.ri.gov ; Alan.nault@puc.ri.gov ; Todd.bianco@puc.ri.gov ;	401-780-2107
Linda George, RI Senate Policy	lgeorge@rilin.state.ri.us ;	
Matt Davey, Silver Sprint Networks	mdavey@silverspringnet.com ;	
Christopher Long	christopher.long@opower.com ;	
Douglas Gablinske, The Energy Council-RI	Doug@tecri.org ;	
Eugenia T. Gibbons, ECANE d/b/a Mass Energy & People's Power & Light	eugenia@massenergy.org ;	
Laurence Ehrhardt	replarry@gmail.com ;	
Kat Burnham, People's Power & Light	kat@ripower.org ;	
Vito Buonomano	info@neastsolar.com ;	
William Bernstein, Esq. William L. Bernstein, Esquire 627 Putnam Pike Greenville, RI 02828	wblaw@verizon.net ;	401-949-2228 Ext 102

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
RHODE ISLAND PUBLIC UTILITIES COMMISSION**

**In Re: Review of The Narragansett Electric Company
d/b/a National Grid's Rate Design Pursuant to
R.I. Gen. Laws § 39-26.6-24**

Docket No. 4568

**THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID'S
OBJECTION TO RENEWED MOTION FOR SUMMARY DISPOSITION BY
GREEN DEVELOPMENT, LLC D/B/A WIND ENERGY DEVELOPMENT, LLC**

Pursuant to Rule 1.15(d) of the Rhode Island Public Utilities Commission's Rules of Practice and Procedure (PUC Rules), National Grid¹ objects to the Renewed Motion for Summary Disposition by Green Development, LLC d/b/a Wind Energy Development, LLC (WED). For the reasons set forth in the accompanying memorandum of law, the Renewed Motion for Summary Disposition regarding the proposed Access Fee² fails to meet the standard for summary disposition set forth in PUC Rule 1.15(e). The Access Fee is wholly consistent with the statutory directive under which it is proposed, R.I. Gen. Laws § 39-26.6-24, and any claim to the contrary is unfounded. In addition, any claims that the Access Fee is inconsistent

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

² The Access Fee is a proposed charge applicable to stand alone generators (i.e., distributed generators (DG) that are directly connected to the distribution system and have no associated on-site load), for any DG facility enrolled in any of the DG programs (i.e., Qualifying Facilities, net-metered facilities, Renewable Energy (RE) Growth Program projects, and DG Standard Contracts projects) as well as any new programs approved in the future by the Rhode Island Public Utilities Commission. The proposed Access Fee will be based upon the nameplate capacity of the DG facility, adjusted for expected availability capacity, and will be a fixed amount each month. Each DG facility will be required to sign an Access Service Agreement with the Company that will specify the nameplate capacity of the unit, the availability capacity factor that will determine the needed distribution system capacity, and the monthly Access Fee. The Company is proposing to include the Access Fee requirement in both its Net Metering Provision, RIPUC No. 2150 and the Renewable Energy Growth Program for Non-Residential Customers, RIPUC No. 2152, and has revised both tariffs accordingly. Clean and marked versions of these tariffs, plus a proposed Access Service Agreement, are included in Schedules NG-15 and NG-16, at 169 and 216, respectively.

with other statutes or regulations are outside the scope of what the PUC should consider under a Motion for Summary Disposition in this case.

National Grid, therefore, respectfully requests that the Rhode Island Public Utilities Commission deny the Renewed Motion for Summary Disposition filed by WED pursuant to PUC Rule 1.15(a).

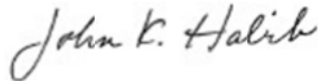
Respectfully submitted,

**THE NARRAGANSETT ELECTRIC COMPANY
d/b/a NATIONAL GRID**

By its attorneys,



Celia B. O'Brien, Esq. (#4484)
National Grid
40 Sylvan Road
Waltham, MA 02451
(781) 907-2153
celia.obrien@nationalgrid.com



John K. Habib, Esq. (#7431)
Nicholas Horan, Esq. (#8156)
Keegan Werlin LLP
265 Franklin Street
Boston, MA 02110-3113
(617) 951-1400
Jack Habib jhabib@keeganwerlin.com
Nicholas Horan nhoran@keeganwerlin.com

Dated: December 31, 2015

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
RHODE ISLAND PUBLIC UTILITIES COMMISSION**

**In Re: Review of The Narragansett Electric Company
d/b/a National Grid's Rate Design Pursuant to
R.I. Gen. Laws § 39-26.6-24**

Docket No. 4568

**MEMORANDUM OF LAW IN SUPPORT OF THE NARRAGANSETT ELECTRIC
COMPANY d/b/a NATIONAL GRID'S OBJECTION TO RENEWED MOTION FOR
SUMMARY DISPOSITION BY GREEN DEVELOPMENT, LLC D/B/A WIND ENERGY
DEVELOPMENT, LLC**

I. INTRODUCTION

National Grid¹ submits this memorandum of law in support of its objection to the Renewed Motion for Summary Disposition (Renewed Motion) by Green Development, LLC d/b/a Wind Energy Development, LLC (WED). The Company objects to the WED Renewed Motion regarding the Company's proposed Access Fee² on the grounds that, like its first Motion for Summary Disposition, (1) WED fails to meet the standard for summary disposition set forth in PUC Rule 1.15(e) and (2) any claims that the Access Fee is inconsistent with other statutes or regulations are outside the scope of what the PUC should consider under a Motion for Summary Disposition in this case. For the reasons set forth herein, WED's Renewed Motion should be denied.

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

² The Access Fee is a proposed charge applicable to stand alone generators (i.e., distributed generators (DG) that are directly connected to the distribution system and have no associated on-site load), for any DG facility enrolled in any of the DG programs (i.e., Qualifying Facilities, net-metered facilities, Renewable Energy (RE) Growth Program projects, and DG Standard Contracts projects) as well as any new programs approved in the future by the Rhode Island Public Utilities Commission (PUC). The proposed Access Fee will be based upon the nameplate capacity of the DG facility, adjusted for expected availability capacity, and will be a fixed amount each month. Each DG facility will be required to sign an Access Service Agreement with the Company that will specify the nameplate capacity of the unit, the availability capacity factor that will determine the needed distribution system capacity, and the monthly Access Fee. The Company is proposing to include the Access Fee requirement in both its Net Metering Provision, RIPUC No. 2150 and the Renewable Energy Growth Program for Non-Residential Customers, RIPUC No. 2152, and has revised both tariffs accordingly. Clean and marked versions of these tariffs, plus a proposed Access Service Agreement, are included in Schedules NG-15 and NG-16, at 169 and 216, respectively.

II. LEGAL STANDARD

Rule 1.15(e) of the PUC's Rules of Practice and Procedure provides the legal standard for a motion for summary disposition as follows: "[I]f the PUC determines that there is no genuine issue of fact material to the decision, it may summarily dispose of all or part of the rate tariff filing." To obtain summary disposition, the moving party has the burden to show that there is no genuine issue of material facts in the record that could support approval of the non-moving party's proposed filing or portion thereof. In Re: Block Island Power Company General Rate Filing, Docket No. 3655, Order No. 18364 (issued September 13, 2005), at 3-4. To decide whether Summary Disposition on the Access Fee is appropriate, the PUC must determine whether there are no material issues of fact regarding whether the Access Fee is consistent with the statutory requirements of R.I. Gen. Laws § 39-26.6-24 (Section 24) of the RE Growth Statute³. Id. (motion for summary disposition of a request for interim rate relief is determined on the basis of whether there is genuine issue of fact material to the decision of whether the criterion for interim relief is satisfied).

III. ARGUMENT

A. The Renewed Motion Fails To Meet The PUC's Standard For Summary Disposition.

WED's Renewed Motion fails to address the PUC's standard of review for summary disposition at all, let alone successfully. Rather than cite precedent that has been established by the PUC that is directly applicable to the PUC's standard of review, or distinguish the Block Island Power Company decision, WED attempts to cite cases from outside of the PUC's body of law to make up its own standard of review. WED then ignores its own novel standard, to argue that: (1) the Company has not met its burden of production to substantiate and justify its

³ R.I. Gen. Laws Ch. 39-26.6 (the RE Growth Statute).

proposed Access Fee; (2) the Access Fee is “illegal and discriminatory” as applied to net metering customers; and (3) “makes no sense” in its proposed application to DG and RE Growth Program customers (WED Motion at 3, 5). However, none of these claims address whether there is a genuine issue of fact material to the decision of whether the criterion for interim relief is satisfied, as required by PUC precedent.

With regard to WED’s claim about the Company’s burden of production, the Company has submitted substantial evidence regarding the purpose of the Access Fee ((Direct Testimony at 62-64; Rebuttal Testimony at 53-54), the calculation of the Access Fee (Company Response to Data Request CLF 1-12; Rebuttal Testimony at 54-56) and justification for recovering the distribution costs caused by stand-alone generators from those customers (Rebuttal Testimony at 55-59). WED’s Renewed Motion addresses none of this evidence, and instead includes quotes allegedly from the Company’s filings in this proceeding without any citations to the record (see WED Motion at 3).

WED does attempt to provide citations from Mr. Karl Rabago regarding Mr. Rabago’s conclusions about the Access Fee (WED Motion at 3-4). However, as cited above, the Company’s witnesses have provided evidence to the contrary.

Accordingly, not only has the Company met its burden of production to justify the Access Fee, there is a genuine issue of material fact that the PUC must analyze on the merits. Since the filing of WED’s first Motion for Summary Disposition, and its rejection by the PUC, additional evidence has been submitted in this proceeding from both the proponents and opponents of the Access Fee (Rebuttal Testimony at 53-56; Intervenor Direct Testimony *inter alia* dated November 24, 2015). However, additional opportunities to present evidence through surrebuttal testimony and evidentiary hearings are still to come. The PUC cannot simply accept

the allegations in WED's Renewed Motion on their face and dismiss the Access Fee as a matter of law without providing all parties to this proceeding the remaining opportunities to address the Access Fee on the merits, either pro or con.

B. Other Legal Requirements Are Outside The Scope Of The Renewed Motion For Summary Disposition.

As noted in the Company's Objection to WED's first Motion for Summary Disposition, any claim that the proposed Access Fee is inconsistent with statutes other than Section 24 of the RE Growth Statute is outside the scope of a Motion for Summary Disposition. Under PUC Rule 1.15(e), the PUC's decision is limited to whether there is any genuine issue of fact material to show that the Access Fee is consistent with Section 24 of the RE Growth Statute. Whether or not the proposed Access Fee is consistent with additional statutes and regulations are beyond what the PUC must decide for purposes of summary disposition and are instead matters to be litigated.

In its Renewed Motion, WED alleges that the Access Fee violates certain other statutory provisions and regulations. For instance, WED again argues that the Access Fee should be rejected as a matter of law on the basis that it offsets net metering credits in violation of R.I. Gen. Laws § 39-26.4-3(a)(5) by offsetting net metering credits (WED Motion at 6). WED also raises a new argument that the Access Fee "makes no sense" in its proposed application to DG and RE Growth Program customers (*id.*).

With regard to WED's argument that the Access Fee should be rejected as a matter of law due to the terms of R.I. Gen. Laws § 39-26.4-3(a)(5), any impact that the Access Fee has on this law has no bearing on the decision of whether National Grid has demonstrated a material issue of fact regarding whether the Access Fee is consistent with the statutory requirements of Section 24

of the RE Growth Statute. See Docket No. 3655, Order No. 18364 (issued September 13, 2005), at 3-4.

Similarly, WED's assertions regarding whether the Access Fee may be applied to DG and RE Growth Program customers based on WED's allegation that such application "counters the intent of those programs" is also a legal issue for the PUC to determine. It has no bearing on the PUC's determination under Rule 1.15(e). For the record, however, National Grid has included a "grandfathering" proposal in its Rebuttal Testimony which directly addresses WED's concerns regarding the application of the Access Fee to DG and RE Growth Program customers (Rebuttal Testimony at 60-63). The PUC should weigh National Grid's proposal to limit the application of the Access Fee to future customers of record for various DG, RE Growth, and net metering programs on the merits after the completion of the evidentiary portion of this docket, and not in the context of an interim Motion for Summary Disposition.

Ultimately, whether the Access Fee is compliant with Rhode Island law raises a host of complex factual and legal issues that should be resolved by the PUC after all parties have had an opportunity to fully litigate each claim. As such, any claims made by WED that the Access Fee violates Rhode Island law should not be decided by the PUC under the summary disposition standard of review.

IV. CONCLUSION

For the reasons set forth above, the Company objects to the WED Renewed Motion for Summary Disposition and respectfully requests that the PUC deny it in full.

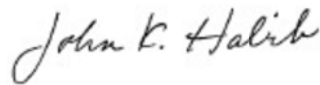
Respectfully submitted,

**THE NARRAGANSETT ELECTRIC COMPANY
d/b/a NATIONAL GRID**

By its attorneys,



Celia B. O'Brien, Esq. (#4484)
National Grid
40 Sylvan Road
Waltham, MA 02451
(781) 907-2153
celia.obrien@nationalgrid.com



John K. Habib, Esq. (#7431)
Nicholas Horan, Esq. (#8156)
Keegan Werlin LLP
265 Franklin Street
Boston, MA 02110-3113
(617) 951-1400
Jack Habib jhabib@keeganwerlin.com
Nicholas Horan nhoran@keeganwerlin.com

Dated: December 31, 2015