

August 24, 2018

BY HAND DELIVERY AND ELECTRONIC MAIL

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

RE: Docket 4692 – Standard Offer Service Procurement Plan
National Grid Objection to Direct Energy's Motion to Intervene

Dear Ms. Massaro:

On behalf of National Grid,¹ pursuant to PUC Rule 1.13, I have enclosed ten copies of National Grid's objection to Direct Energy Business LLC and Direct Energy Services LLC's (collectively, Direct Energy) Motion to Intervene in the above-referenced docket.

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

Very truly yours,



Raquel J. Webster

Enclosures

cc: Docket 4692 Service List
John Bell, Division
Leo Wold, Esq.

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.



Joanne M. Scanlon

August 24, 2018

Date

**Docket No. 4692 - National Grid – 2018 Standard Offer Service (SOS) and Renewable Energy Standard (RES) Procurement Plans
Service List updated 8/24/18**

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

IN RE: THE NARRAGANSETT ELECTRIC COMPANY)
d/b/a NATIONAL GRID – 2018 STANDARD OFFER)
SERVICE PROCUREMENT PLAN)

Docket No. 4692

**NATIONAL GRID’S OBJECTION TO DIRECT ENERGY BUSINESS LLC AND
DIRECT ENERGY SERVICES LLC’S MOTION TO INTERVENE**

I. INTRODUCTION

The Company¹ hereby objects to Direct Energy Business LLC and Direct Energy Services LLC’s (collectively, Direct Energy) Motion to Intervene (the Motion). Direct Energy does not meet the criteria prescribed by Rule 1.13 of the Rhode Island Public Utilities Commission (PUC) Rules of Practice and Procedure to intervene in this matter. In particular, Direct Energy: (1) has no statutory right of intervention; (2) has no particularized interest in this matter that is not adequately represented by existing parties; (3) has brought the Motion in an untimely manner; and (4) seeks to improperly expand the scope of the docket. Thus, the PUC should deny Direct Energy’s Motion.

II. RELEVANT FACTS

The purpose of the August 27, 2018 hearing in this docket is for the PUC to evaluate and adjudicate the Company’s proposed rate changes to the Standard Offer Service (SOS) Rate for the Residential Group and Commercial Group for the period October 2018 through March 2019, and SOS rates for the Industrial Group for the period October 2018 through December 2018. The Company submitted the proposed rates to the PUC pursuant to the Company’s SOS

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

Procurement Plan (Plan) for 2018, which the PUC approved on March 30, 2017 in Docket No. 4692. This discrete proceeding is not a far-reaching stakeholder process intended for multiple parties to make alternate proposals as to how rates should be designed or the periods over which SOS rates should be implemented.

On August 10, 2018, the PUC established a deadline for motions to intervene in this matter. Direct Energy filed the Motion on August 22, 2018, only days before the August 27, 2018 hearing. In the Motion, Direct Energy asserts purported reasons that it claims create a unique interest that warrants intervention. Those purported reasons are: (1) Direct Energy serves customers in Rhode Island that ostensibly do not utilize SOS; and (2) Direct Energy is also a wholesale energy supplier. First, Direct Energy does not explain why it has any authority to act on behalf of customers or how it represents customers' interests in a way that the Rhode Island Division of Public Utilities does not. Second, Direct Energy fails to offer any explanation why approval of rates for October 2018 – March 2019 will have any impact on wholesale markets when the Company already has issued and received responses to Requests for Proposal to purchase SOS for the time periods at issue. Direct Energy has no standing to speak on behalf of customers. In addition, Direct Energy utterly fails to explain why it has an interest that is directly affected by this specific proceeding.

The substance and timing of Direct Energy's motion show why Direct Energy should not be permitted to intervene. Direct Energy attempted to intervene at a late stage – days before a substantive hearing and after the intervention deadline established by the PUC – and made no showing that its late filing is justified. Moreover, Direct Energy proceeds to suggest that the PUC adopt myriad policies relating to billing, metering, data management, customer enrollment, and other matters. Plainly, these suggestions are outside the scope of this proceeding.

III. LEGAL STANDARD

Rule 1.13 of the PUC Rules of Practice and Procedure establishes the standards for a person to intervene as a party in a proceeding before the PUC. There are three means by which a person can establish intervenor status: (1) a statutory right; (2) an affected interest not adequately represented by existing parties; and (3) furtherance of the public interest. The PUC has reiterated that it will be cautious in granting intervenor status and will work to ensure that a movant actually meets one of the three criteria established in PUC Rule 1.13(b). See Narragansett Electric Company, Docket No. 3739, Order No. 18794, at 17 (December 27, 2006) (citing, In Re: Hi-Speed Ferry, LLC, 746 A.2d 1240, 1245-1246 (R.I. 2000)). Further, “in no event” shall a person file a motion to intervene “later than the date fixed for the filing of motions to intervene . . . with respect to the proceedings . . . , unless, for good cause shown, the [PUC] authorizes a late filing.” Rule 1.13(d). Moreover, if a person is permitted to intervene, that intervenor ordinarily shall not be permitted to broaden the issues in the docket absent a showing that such broadening is both in the public interest and will not result in undue hardship. Rule 1.13(f) (addressing late intervenors).

IV. ARGUMENT

Direct Energy does not satisfy any of the Rule 1.13 criteria for intervention, much less establish good cause shown for a late intervention. Simply put, Direct Energy has no: (a) statutory right to intervene; (b) particularized interest that requires special representation in this docket beyond the existing parties; nor (c) public interest reason for intervening.

A. Direct Energy Has No Statutory Right To Intervene

Direct Energy does not even contend that it has a statutory right to intervene. There is no statute that would provide such a right. Thus, Rule 1.13(a) cannot be the basis for Direct Energy’s attempted intervention.

B. Direct Energy's Interests Do Not Require Intervention

The Motion attempts to articulate two general reasons Direct Energy should be permitted to intervene: (1) Direct Energy's customers could be affected by proposed SOS rate changes; and (2) Direct Energy is a wholesale energy supplier. Neither of these reasons provides a basis for permitting Direct Energy to intervene in this docket.

Direct Energy's concern that this docket could affect consumer electricity pricing is not unique. That is precisely the concern and interest of every customer. However, Direct Energy claims "Direct Energy and its customers have unique interests in this proceeding that cannot be adequately represented by another party." Direct Energy does not explain why it *and its customers* have a unique interest in this docket. If a mere interest in pricing was sufficient to permit a party to intervene, then every person who purchases electricity from the Company would be permitted to intervene in every docket that could result in increases (or indeed any changes to) the rates charged by the Company. Such a standard is unworkable and would run against the established principle that intervention should not result in undue hardship. PUC Rule 1.13(f). There is a public comment process that permits anyone who is interested to make its concerns known to the PUC, the Company, and the parties. The Division is charged with representing the interests of all customers, and any customer who has concerns has an advocate in the Division, which will hear any particularized concerns raised by public comment. Simply put, the fact that Direct Energy's customers' rates will be impacted by a proceeding is not, in and of itself, a basis for a person to obtain intervening party status.

C. Direct Energy's Motion to Intervene is Untimely.

Direct Energy notes "On May 12, 2017, the Commission issued an order in this docket approving, as filed, National Grid's procurement plan for the 2018 procurement cycle." On

August 7, 2018, the PUC set August 10, 2018 as the deadline for any motions to intervene. Yet Direct Energy took no action to intervene in this docket until August 22, 2018, mere days before the Commission's August 27, 2018 public hearing on the Company's proposed SOS rates and later than the deadline established by the PUC. Direct Energy's motion is untimely. To the extent Direct Energy has a basis to intervene – which it does not – it was required to have taken action sooner, in accordance with the PUC deadline, to give the parties and the PUC a fair opportunity to consider the merits of any relevant arguments and the veracity of any data offered in support of those arguments.

Because Direct Energy's attempt intervene is late, it must demonstrate good cause for its failure to intervene by the deadline. Rule 1.13(d). Additionally, Direct Energy must establish: 1) the public interest requires expansion of the docket; and 2) no undue hardship will result to other parties in this proceeding. Rule 1.13(f). Direct Energy makes no attempt to satisfy these criteria in its motion. It does not explain why the public interest *requires* consideration of additional issues. Indeed, its motion says nothing on either of these subjects, and its comments speak only amorphously about wholesale pricing and *potential, future* customer impacts. Second, expansion of this docket will create uncertainty for the Company and the public.

D. Direct Energy improperly seeks to expand the scope of this docket.

Finally, Direct Energy's motion to intervene was filed with proposed comments that seek to expand the scope of this docket. This docket concerns the Company's 2018 SOS Procurement Plan, and, at this stage in the docket, the only remaining matter is approval of proposed SOS rates for the remainder of 2018 (and early 2019 where applicable). Direct Energy has little to say about the proposed rates. Instead, Direct Energy attempts to use the limited scope of this docket to raise Direct Energy's business concerns about rate mitigation activity taken in other states.

Then Direct Energy criticizes the Division's suggestions on how to mitigate the impact on consumers of market rate fluctuations. This is not the proper docket for Direct Energy to raise those concerns.

V. CONCLUSION

For the reasons set forth herein, the Company respectfully requests that the PUC deny Direct Energy's motion to intervene.

Respectfully submitted,

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

By its attorneys,



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Dated: August 24, 2018

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