



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Rhode Island Division of
Public Utilities and Carriers
89 Jefferson Blvd.
Warwick RI 02888
(401) 941-4500

November 22, 2019

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

**IN RE: Petition of The Episcopal Diocese of Rhode Island's For Declaratory
Judgment on Transmission System Costs and Related "Affected System Operator Studies –
Docket 4891**

Dear Luly,

Please find the State of Rhode Island Division of Public Utilities and Carriers, (the "Division") comments in the above captioned matter for filing with the State of Rhode Island Public Utilities Commission.

I appreciate your anticipated cooperation in this matter.

Very truly yours,


Jon G. Hagopian
Deputy Chief Legal Counsel

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

**IN RE: PETITION OF THE EPISCOPAL DIOCESE
OF RHODE ISLAND'S FOR DECLARATORY DOCKET NO. 4981
JUDGMENT ON TRANSMISSION
SYSTEM COST AND RELATED
"AFFECTED SYSTEM OPERATOR" STUDIES**

**THE DIVISION OF PUBLIC UTILITIES AND CARRIERS REPLY COMMENTS TO
THE EPISCOPAL DIOCESE OF RHODE ISLANDS PETITION FOR DECLARATORY
JUDGMENT ON TRANSMISSION SYSTEM COST AND RELATED
"AFFECTED SYSTEM OPERATOR" STUDIES**

INTRODUCTION

Now comes the State of Rhode Island Division of Public Utilities and Carriers and submits this reply to the Episcopal Diocese of Rhode Island ("Diocese") Petition for Declaratory Judgement ("Petition") with the Rhode Island Public Utilities Commission ("Commission") on two discreet issues of the Petition seeking an order *inter alia* declaring that (1) transmission study costs are not authorized by Rhode Island law; and that (2) transmission system upgrade costs are the subject of federal jurisdiction and may not be imposed under Rhode Island's tariff regulating distribution system interconnections.

OVERVIEW OF THE FILING

The Diocese is proposing to build a solar generating facility pursuant to R.I. Gen. Laws § 39-26.4 et seq., that is less than 5MW of generating capacity. The Diocese is proposing to develop two solar arrays on 40 acres of property of the Diocese that is made up of 184 acres of former farmland in the Town of Gloucester, Rhode Island.

DISCUSSION

The fundamental issues raised here are (1) whether transmission study costs are authorized by Rhode Island law; and (2) whether transmission system upgrade costs are the subject of federal jurisdiction and may not be passed on to Distributed Generation (“DG”) developers under Rhode Island’s tariff regulating distribution system interconnections.

First a review of federal law is in order. The facts here indicate that the project of the Diocese represents a qualifying facility according to the Public Utility Regulatory Policies Act of 1978, (“PURPA”), and the Code of Federal Regulations.¹ The proposed project of the Diocese is a small power production facility that is a qualifying facility under Subpart B, 18 CFR §2902.204.² The project is therefore exempt from the Federal Power Act pursuant to 18 CFR §292.601(c).

The provisions set forth in 18 CFR §292.306 provides that: “[e]ach qualifying facility shall be obligated to pay any interconnection costs which the State regulatory authority (with respect to any electric utility over which it has ratemaking authority) or nonregulated electric utility may assess against the qualifying facility on a nondiscriminatory basis with respect to other customers with similar load characteristics.”

The Narragansett Electric Company d/b/a National Grid (“National Grid” or the “Company”) is a market participant of ISO New England, (ISO-NE) and as such is subject to the tariffs, rules and regulations of ISO-NE. Distributed generation resources between 1MW and 5MW may require review by ISO-NE pursuant to Section I.3.9. of the ISO New England, Inc’s Transmission, Markets and Services Tariff, (ISO-NE Tariff) to ensure that proposed system does

¹ See, 18 CFR 292.101(a) & (b) (i); *see also*, National Grid Planning Document, System Impact Study for the Diocese of Rhode Island, DGWR: RI-25672190, Case 178426.

² The size of the project does not exceed 80 MW limit of 18 CFR 292.204(a) and the source of fuel is renewable energy which comports with 18 CFR § 292.204 (b).

not have a significant adverse impact on the regional power system.³ The ISO-NE tariff is approved by the Federal Energy and Regulatory Commission (FERC) pursuant to the Federal Power Act. Section I.3.9.s Proposed Planning Application, (PPA) process has been part of ISO-NE planning process for many years.⁴ ISO-NE has been exercising its discretion to use this process more recently as DG Resources proliferate. ISO New England acting as the Regional Transmission Organization (RTO) for New England, is responsible for reviewing and approving proposed system changes because these changes may impact the stability, reliability, or operating characteristics of the New England power system.⁵ The I.3.9 PPA process is the means used by National Grid to provides notice to ISO-NE for interconnection by the Diocese of a DG resource larger than a 1MW and not greater than 5MW, which may impact the transmission system.⁶ ISO-NE in turn will determine the level of study and review necessary to make the determination whether there will be an impact and what if anything needs to be upgraded or modified in the power system .⁷

Pursuant to R.I. Gen. Laws § 39-26.3-4 study costs- provides in pertinent part that:

After thirty (30) days from the enactment of this chapter until the end of calendar year 2012, the impact study fee shall be in accordance with the schedule set forth below: (6) Non-residential applicants for interconnections of renewable distributed generation greater than one megawatt: ten thousand dollars (\$10,000).Beginning January 1, 2013 and for every year thereafter, the commission shall set a new fee schedule that is no less than what is specified herein. The purpose of the impact study fee schedule is to assure that an applicant is responsible for paying a reasonable amount of the cost of the study in advance of

³ See, ISO New England, White Paper, The Growth of Distributed Generation, ISO New England's Role in the Interconnection Review Process, Pg.2.

⁴ *Id.*

⁵ *Id.*

⁶ See, ISO Notification and Additional Study for Projects > 1 MWW and < 5MW, White Paper, The Growth of Distributed Generation, ISO New England's Role in the Interconnection Review Process, Pg.4.

⁷ See, ISO New England, White Paper, The Growth of Distributed Generation, ISO New England's Role in the Interconnection Review Process, Pg.2-6.

installing the distributed generation, but that the advance cost is not so high as to discourage an applicant from pursuing a project.

Similarly, pursuant to R.I. Gen. Laws § 39-26.3-4.1 (a) provides: “[t]he electric distribution company may only charge an interconnecting renewable energy customer for any system modifications to its electric power system specifically necessary for and directly related to the interconnection.” This section of the statute does not bar the imposition or pass through of transmission study costs or the costs to upgrade the transmission system. It does not specify one way or another whether the costs are transmission system or distribution system costs.

The interconnection of the distributed generation project here is governed by National Grid tariff, R.I.P.U.C. No. 2180, The Narragansett Electric Standards for Connecting Distributed Generation, (the Interconnection Standards). The interconnection of the project here is proceeding by the Standard Process found in Section 3.4 of R.I.P.U.C. No. 2180, sheet 16 of the Interconnection Standards. According to Section 3.4 the Standard Process has the longest maximum time period and highest potential costs. The cost of studies is a central issue here. Section 3.4 c. provides *inter alia* that:

Company provides an Impact Study Agreement, or an ISRDG, including a cost estimate for the study or the costs for an ISRDG as outlined in table 2. Where there are other potentially Affected Systems, and no single Party is in a position to prepare an Impact Study covering all potentially Affected Systems, the Company will coordinate but not be responsible for the timing of any studies required to determine the impact of the interconnection request on other potentially Affected Systems. The Interconnecting Customer will be directly responsible to the potentially Affected System operators for all costs of any additional studies required to evaluate the impact of the interconnection on the potentially Affected Systems; provided, however, the Company may, in its sole discretion, elect to include the additional Affected System study costs in the Company’s cost estimates, in which case the Company will detail the separate Affected System study costs, and the Interconnecting Customer

will pay such costs to the Company (and will be responsible for any and all actual costs thereof). The timelines in Table 1 will be affected if the ISO-NE's Operating Procedure 14 will be required and/or transmission upgrades or studies are needed for Affected Systems. This could occur, without limitation, if the Interconnecting Customer's Facility is greater than or equal to 5 MWs or if the aggregate capacity of Facilities connected (which are on the same feeder and are physically close to each other) is greater than or equal to 5 MWs.

Similarly, Section 5.1 provides that the interconnecting customer shall be responsible for the reasonably incurred costs of the review by the Company and, pursuant to Section 5.2, all costs associated with the installation and construction of the facility and associated interconnection equipment on the Interconnecting Customers side of the PCC, less any system improvements.

Finally, Section 5.3 of Interconnection Standards states that:

The Interconnecting Customer shall only pay for that portion of the interconnection costs resulting solely from the System Modifications required to allow for safe, reliable parallel operation of the Facility with the Company EPS; provided, however, the Company may only charge an Interconnecting Customer for System Modifications specifically necessary for and directly related to the interconnection. The Interconnecting Customer shall also be responsible for all costs reasonably incurred by Company attributable to the proposed interconnection project in designing, constructing, operating and maintaining the System Modifications.

At the time that the Company provides an Interconnecting Customer with any Impact Study or Detailed Study, the Company shall also provide, along with that Study, a statement of the Company's policies on collection of tax gross-ups. As appropriate, to the extent that subsequent Interconnecting Customers benefit from System Modifications that were paid for by an earlier Interconnecting Customer, the Company may assess a portion of the costs to such subsequent Interconnecting Customers, which will be refunded to the earlier Interconnecting Customer if actually collected. Such assessments may occur for a period of up to five years from the Effective Date of the earlier Interconnecting Customer's Interconnection Service Agreement.

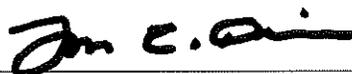
The Diocese argues that National Grid may only charge for interconnection costs to its electric power system. The Diocese argues that neither National Grid nor New England Power, (“NEP”), its transmission affiliate can charge the Diocese, a distribution customer, for transmission studies or the costs of transmission system modifications.

The Division asserts that the Diocese is responsible for transmission study costs and the costs of transmission system modifications. These costs can be passed through to the Diocese by National Grid pursuant to state and federal law. First, National Grid as a market participant of ISO-NE is obligated to comply with ISO-NE tariffs, rules and regulations, this includes passing through to the Diocese, the costs of transmission studies and the cost of system modifications to the transmission system resulting from any impact which may be found due to interconnection. The authority for imposing these costs is clear. The National Grid interconnection tariff 2180 is unequivocal, assigning cost responsibility to the DG customer and the state statute does not bar these costs. Further, the R. I. Gen. Laws § 39-26.3-4.1(a) is silent as to whether costs may be passed through to the Diocese for such things as the pass through of study costs of Affected System operators and system modifications costs from NEP. The tariff relating to the interconnection of DG resources, Section 3.4 expressly provides that the interconnecting customer is responsible for the costs of all studies undertaken by the Company and affected system operators, including ISO-NE. Likewise, Section 5.3 of the tariff addressing Interconnection Standards provides that the interconnection customer is responsible for all system modification costs. The federal law authorizes the State of Rhode Island pursuant to 18 CFR §292.306 to impose “any interconnection costs”¹ the State regulatory authority may assess against the qualifying facility. As a practical matter, even if the transmission study costs and system modification costs were not authorized

under state or federal law, which they are, the Diocese would still be required to be pay these costs, as a condition of interconnection by ISO-NE directly.

For the foregoing reasons the Division seeks that the Commission deny the declaratory relief sought by the Diocese and enter an order consistent the Division's memorandum here.

Division of Public Utilities
and Carriers
By its attorney,

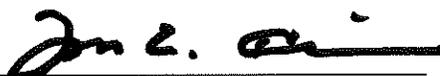


Jon G. Hagopian, Esq. (#4123)
Deputy Chief Legal Counsel
State of Rhode Island
Division of Public Utilities and Carriers
89 Jefferson Blvd.
Warwick, R.I. 02888
Tel.401-941-4500

Dated: November 22, 2019

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of November 2019, that I transmitted an electronic copy of the within Comments to the attached service list and to Luly Massaro, Commission Clerk via electronic mail.



Docket No. 4981 - Episcopal Diocese of RI – Petition for Declaratory Judgment on Transmission System Costs and Related "Affected System Operator" Studies Service List Updated 10/24/2019

Name/Address	E-mail	
Seth H. Handy, Esq. HANDY LAW, LLC 42 Weybosset Street Providence, RI 02903	seth@handylawllc.com ;	401-626-4839
	helen@handylawllc.com ;	
Jim Kurtz Burton Dennis	jkurtz@reenergygroup.com ;	
	dennis@episcopalri.org ;	
Raquel Webster, Esq. National Grid 280 Melrose Street Providence, RI 02907	Raquel.webster@nationalgrid.com ;	781-907-2121
	Joanne.Scanlon@nationalgrid.com ;	
National Grid John K. Habib, Esq. Matthew Stern, Esq. Keegan Werlin LLP 99 High Street, Suite 2900 Boston, MA 02110	jhabib@keeganwerlin.com ;	617-951-1354
	Mstern@keeganwerlin.com ;	
Raquel Webster, Esq. National Grid 280 Melrose Street Providence, RI 02907	Raquel.webster@nationalgrid.com ;	781-907-2121
	Joanne.Scanlon@nationalgrid.com ;	
	Brooke.Skulley@nationalgrid.com ;	
	John.Kennedy@nationalgrid.com ;	
Division of Public Utilities Jon Hagopian, Division of Public Utilities & Carriers	Jon.hagopian@dpuc.ri.gov ;	
	Jonathan.Schrag@dpuc.ri.gov ;	
	Linda.george@dpuc.ri.gov ;	
Luly E. Massaro, Commission Clerk Public Utilities Commission 89 Jefferson Blvd. Warwick, RI 02888	Luly.massaro@puc.ri.gov ;	401-780-2017
	Cynthia.WilsonFrias@puc.ri.gov ;	
	Todd.bianco@puc.ri.gov ;	
	Margaret.Hogan@puc.ri.gov ;	
	Alan.nault@puc.ri.gov ;	
Office of Energy Resources Andrew Marcaccio, Esq. Carol Grant Nick Ucci Chris Kearns Shauna Beland	Andrew.Marcaccio@doa.ri.gov ;	401-222-8880
	Carol.Grant@energy.ri.gov ;	
	Christopher.Kearns@energy.ri.gov ;	
	Shauna.Beland@energy.ri.gov ;	
	Nicholas.ucci@energy.ri.gov ;	