

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

Petition of the Episcopal Diocese of Rhode Island for Declaratory Judgment on Transmission System Costs and Related “Affected System Operator” Studies

Docket No.

PETITION OF THE EPISCOPAL DIOCESE FOR DECLARATORY JUDGMENT

Pursuant to R.I.G.L. § 42-35-8(c) and Procedural Rule 1.10(c) of the Rhode Island Public Utilities Commission’s Rules of Practice and Procedure, the Episcopal Diocese of Rhode Island petitions the Commission for a Declaratory Judgment on whether the Narragansett Electric Company (TNEC) may, pursuant to its distribution system interconnection tariff in effect at the time of the Diocese’s application for interconnection (Tariff), subject the Diocese’s proposed renewable energy project that is less than 5MW in generating capacity to a study of transmission system impacts for the purpose of determining whether the Diocese project should be further studied and possibly required to contribute toward the cost of transmission system upgrades. These transmission studies and related costs and delays imposed by TNEC’s transmission affiliate New England Power (NEP) were not authorized or contemplated by the Tariff in place at the time the Diocese applied for interconnection. Transmission study costs are not authorized by Rhode Island law and transmission system upgrade costs are the subject of federal, not state, jurisdiction, and are also unauthorized under state law. These transmission studies and costs cause time and cost risks that make it impossible for the Diocese to make the investment needed to secure its federal tax credits and finance its solar project designed to save the economics of a summer camp for urban youth. The Diocese asks the Commission to declare that: 1) Transmission study costs may not be assessed to interconnecting distributed generation customers under R.I. Gen. Laws §39-26.3-4; 18 CFR §292.306; 2) transmission studies may not

delay the issuance of an interconnection impact study which must issue within ninety days, without excuse, per R.I. Gen. Laws §39-26.3-3; 3) costs of transmission system upgrades are solely the subject of federal jurisdiction and may not be imposed under Rhode Island's tariff regulating distribution system interconnections; 4) even if the state had and chose to exercise jurisdiction to consider authorizing the imposition of such costs, neither ISO tariff I.3.9 nor ISO OP5-1 nor any other ISO OP authorize TNEC or NEP to impose transmission system upgrade costs on local distributed generation projects; 5) TNEC must apply the Tariff in effect at the time of an interconnection application and the Tariff in effect when the Diocese applied for interconnection did not authorize transmission system impact studies or the assessment of costs for transmission system upgrades to respond to impacts; and 6) TNEC may not impose the cost of any required upgrades to NEP's transmission system under the Tariff per R.I. Gen. Laws §39-26.3-4.1(a) (may only charge for system modifications to its electric power system specifically necessary for and directly related to the interconnection); 7) neither ISO tariff I.3.9 nor ISO OP5-1 authorize TNEC or NEP to require transmission studies of interconnecting distributed generation customers proposing less than 5MW of capacity unless and until ISO first finds potential for significant impact to the transmission system and requires a Proposed Plan Application;¹ and 8) TNEC may not delay the issuance of an interconnection services agreement or delay the statutory timeline for interconnection due to its own decision to impose transmission studies on customers proposing to interconnect less than 5MW of generating capacity so that it can then assess unauthorized costs of any required transmission upgrades on those customers.

¹ ISO OP-14 allows studies of clustered projects in order to address measures to ensure reliability on the transmission system. Neither ISO nor TNEC has cited OPI4 as the source of authorization for these cluster studies designed to impose transmission system upgrade costs on local distributed generation customers.

There are two questions that have been raised on these legal issues that warrant clarification right at the outset – the Commission’s jurisdiction for decision and the concern for transmission system safety and reliability. First, this Petition does not raise a question that is beyond the Commission’s jurisdiction for decision. National Grid has raised that argument here in Rhode Island and it has surfaced in Massachusetts,² but that position is misplaced in this context. The fundamental questions at issue here are: 1) whether the cluster studies that TNEC is already imposing on distributed generation customers and the transmission system upgrade costs that it may then seek to charge distributed generation customers as a result of those studies are appropriately implemented under the Tariff or (if the Commission does decide it has jurisdiction to allow their imposition), under ISO policy; and 2) whether TNEC’s imposition of those study requirements and costs is consistent with Rhode Island law. Both those questions lie within Commission jurisdiction and call for the Commission’s rulings.

Second, this petition is not about whether ISO or National Grid has the right to protect the reliability of its transmission system and prevent reliability problems with the interconnection of distributed generation. Such reliability issues are separately addressed through ISO OP14, which has never been cited as the source of authority for these cluster studies. TNEC/NEP claim these cluster studies are authorized under OP5-I. OP14 has its own purpose, applicability provisions (over 5MW or coincidentally clustered projects on a single feeder that exceed 5MW) and requirements, none of which are questioned or raised at issue here. These cluster studies are not about reliability requirements; they are presented as a pathway for NEP to justify assessing cost of transmission system upgrades to distributed generation customers. While the prospect of

² D.P.U. 19-55 Hearing Officer Memo 08 07 19, concluding, “Affected system operator studies are required to ensure the safety and reliability of the electric power system and the Ombudsperson cannot determine whether an affected system operator study is or is not necessary for a certain DG facility.”

assessing distributed generation customers the costs of transmission studies or any costs of transmission system upgrades is (curiously) not expressly stated or contemplated in the ISO tariff or OPs or any of the outlines that TNEC and ISO have used to inform the regulated communities of the cluster studies (for good reasons that involve, we submit, jurisdictional restrictions), in repeated meetings it has been clearly expressed as the end result of these studies. If TNEC and NEP do not have (or, curiously, do not even claim anywhere in writing) the authority to assess distributed generation customers the cost of transmission system impact studies or transmission system upgrades, what is the purpose, value and justification for these cluster studies that delay projects and cause major economic uncertainties right when the developers need to invest substantial capital to preserve the federal tax credits?

I. AGREED FACTS³

The Diocese's planned solar project is located on the grounds of the Episcopal Conference Center and Camp in Gloucester. The solar project would generate rent to save the Diocese's summer camp for disadvantaged youth, currently operating with an annual deficit in excess of \$250,000, while providing net metering credits to all their parishes and other non-profit, religious organizations in Rhode Island and fulfilling the Diocese mission of creation care.

The solar project that the Diocese intends to develop includes two solar arrays on the camp property, the Eastern and Western arrays, bifurcated by Reservoir Road, using about 40 acres of remote portions of the Diocese property that consists of approximately 184 acres of former farmland (together, the "Project"). The Diocese has received Master Plan approval and a special use permit from Gloucester for the Project.

³ The Diocese and TNEC intend to file agreed facts for this Petition at the request of Commission counsel.

The Diocese received feasibility study results for the interconnection of each array from TNEC in April 2018 that found feasibility and estimated a cost of \$602,000 for each array. The Diocese applied for Impact Studies on both projects, and paid the requisite fees on 8 June, 2018. On April 17th, 2019, TNEC informed the Diocese that interconnection would not be possible unless the Project was limited to 3MW or less and the Diocese paid for significant upgrades to several circuits and a substation (hereinafter “re-conductoring”) at a projected cost of \$3 to 3.5 million.

The Diocese asked TNEC’s technical team how much capacity it could put on the system without re-conductoring. TNEC modeled that and said their system could only handle 2 MW without re-conductoring. The Diocese, concerned that 2 MW for \$650,000 would be difficult to finance, requested 2.2 MW, and TNEC declared that 2.2MW would be feasible without reconductoring. The Diocese indicated a willingness to proceed with the impact study on just the Eastern Array at 2.2 MW while it continued to address the issues confronting interconnection of the Western Array.

In June 2019, TNEC first informed the Diocese that the 2.2MW Eastern Array would be subject to a Transfer Analysis for Transmission Impacts Study. TNEC’s affiliate, New England Power (NEP) would administer the study the cost of which would be allocated to the Diocese and other interconnecting customers in its cluster and which was estimated to take 6 to 9 months to perform. ISO has not found that the Diocese project or any other projects included in its cluster study cause significant impact to the transmission system. Nor has ISO required a Proposed Plan Application for the Diocese Project. The transfer study could result in a need for further, longer transmission studies and an assessment of additional costs for transmission

system upgrades and the ongoing costs of maintaining those upgrades before a final cost of interconnecting the project and project economics can be predicted.

TNEC has advised developers that it has changed its practice and now submits its generator notification forms to ISO during the impact study phase of interconnection rather than upon completion of system modifications when the project seeks final authorization to interconnect. That change in practice came without notice to developers, many of whom (like the Diocese) had already made substantial investments in project development and had reasonable investment backed expectations of development according to Rhode Island law and existing ISO tariffs and operating procedures.

In August 2019, TNEC produced an Impact Study for the Eastern Array, quoting a cost of \$1.5 MM to interconnect 2.2MW. TNEC indicated that the prior estimates were for upgrading from single-phase to three-phase but did not contemplate the need to modify protection along the other circuits in the area and at the point of common coupling at the facility, to manage voltage issues on the system and provide for anti-islanding – at a cost of more than \$1 million in additional line and substation upgrade costs.

In August 2019, TNEC issued a “Final Impact Study” on the Western Array. That study said that the “expected least-cost interconnecting circuit would be the circuit adjacent to the site, which is the 34F2, a 12.47 kV regulated, three-phase, 4 wire, wye, effectively-grounded, radial distribution circuit that originates out of the Company’s Chopmist No. 34 Substation, in Foster, RI” but “no amount of system modifications could be performed on this circuit that would make this interconnection feasible. The Company can conduct further study on another circuit, which would require a new impact study.”

The Diocese project will be a Qualified Facility. The Diocese Project will not be interconnected to a FERC-jurisdictional facility. The Diocese Project will not sell its energy to ISO-NE markets and will sell 100% of its output as a Qualifying Facility to the interconnecting utility under a PURPA contract. ISO representatives have regularly stated at stakeholder meetings that ISO is not dictating which 1-5 MW facilities must be included in a cluster study or how that queue is managed, or how NEP otherwise implements and administers any such study.

At the June 21 interconnection stakeholder meeting convened by the Office of Energy Resources, National Grid described NEP's intent to allocate the cost of the transmission impact studies and any transmission system improvements required to address any identified impacts and the ongoing operating and maintenance costs of any such improvements among the cluster pool. At that June 21 meeting, after the presentations, stakeholders asked (among other things) how the renewable energy generators could accurately gauge the cost of their interconnections given the length of time it could take to complete the full transmission studies and given the fact that some interconnecting customers are likely to drop out of the queue once informed of the obligation to fund transmission upgrades which would leave less of a pool to fund the upgrades at higher cost to each continuing interconnection, requiring reallocation and the possibility that the ever increasing cost would drive more interconnecting customers out of the queue.

Tim Roughan of NECO responded that he did not know how that challenge of defecting projects would ultimately be managed. Nothing in the ISO tariff or operating procedures or in TNEC or ISO handout materials distributed at any Rhode Island stakeholder meeting indicates that 1-5MW interconnecting customers could be assessed costs of transmission studies or the capital and operating and maintenance costs of transmission system upgrades. At the Office of Energy Resources interconnection stakeholder meeting held on September 9, 2019, TNEC

proposed to revise the distribution system interconnection tariff to include authorization to study and assess costs of transmission system impacts.

The Diocese must invest \$300,000 to \$600,000 (depending on the size of the project ultimately permitted to interconnect) before December 31, 2019, in order to preserve access to the federal investment tax credit that makes its project viable.

II. REQUESTED RELIEF

The Diocese requests declaratory judgment that:

1) transmission system impact study costs may not be assessed to interconnecting distributed generation customers under R.I. Gen. Laws §39-26.3-4 and 18 CFR §292.306;

2) transmission system impact studies may not delay the issuance of an interconnection impact study which must issue within ninety days, without excuse, under R.I. Gen. Laws §39-26.3-3;

3) costs of transmission system upgrade costs are solely the subject of federal jurisdiction and may not be imposed under the Tariff;

4) TNEC may not impose the cost of any required upgrades to NEP's transmission system under the Tariff per R.I. Gen. Laws §39-26.3-4.1(a) - it may only charge for system modifications to its electric power system specifically necessary for and directly related to the interconnection;

5) TNEC must apply the Tariff in effect at the time of an interconnection Tariff and the Tariff in effect when the Diocese applied for interconnection did not authorize transmission system impact studies or the assessment of costs for transmission system upgrades to respond to impacts;

6) even if the Commission had jurisdiction to authorize NEP to impose the costs of transmission system upgrade costs on interconnecting customers under the Tariff, neither ISO tariff I.3.9 nor ISO OP5-1 nor any other ISO OP authorize TNEC or NEP to impose transmission system upgrade costs on local distributed generation projects through the Tariff;

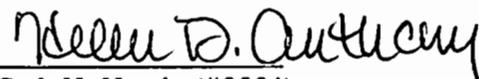
7) neither ISO tariff I.3.9 nor ISO OP5-1 authorize TNEC or NEP to require transmission studies of interconnecting distributed generation customers proposing less than 5MW of capacity unless and until ISO first finds potential for significant impact to the transmission system and requires a Proposed Plan Application within sixty days of TNEC's filing of generator notification forms;

8) TNEC may not delay the issuance of an interconnection services agreement or delay the statutory timeline for interconnection due to its own decision to impose transmission studies on customers proposing to interconnect less than 5MW of generating capacity so that it can then, ultimately, assess unauthorized costs of any required transmission upgrades needed to address those costs on those customers.

**THE EPISCOPAL DIOCESE OF
RHODE ISLAND**

By its attorneys,

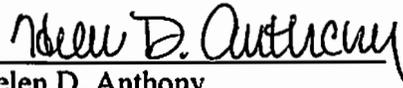
HANDY LAW, LLC



Seth H. Handy (#5554)
Helen D. Anthony (#9419)
42 Weybosset Street
Providence, RI 02903
Phone: (401) 626-4839
Facsimile: (401) 753-6306
seth@handylawllc.com

CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2019, I delivered a true copy of the foregoing document to National Grid by electronic and regular mail.


Helen D. Anthony