STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

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

ORDER

I. Background

On October 11, 2019, the Episcopal Diocese of Rhode Island (Diocese) submitted a Petition to the Public Utilities Commission (PUC) for a Declaratory Judgment pursuant to R.I. Gen. Laws § 42-35-8(c) and 810-RICR-00-00-1.11C (PUC Rules of Practice and Procedure).[1] The Diocese, a customer of The Narragansett Electric Company d/b/a/ National Grid (Narragansett), has submitted two distributed generation projects to Narragansett for interconnection studies. Narragansett has advised the Diocese that the projects are subject to Affected System Operator studies. Narragansett has further advised the Diocese that there are additional costs associated with the studies. Narragansett has advised the Diocese that it may be responsible for additional costs for Affected System modifications and distribution system modifications that may result from the Affected System Operator studies.

The Diocese sought eight declarations from the PUC:

(1) That Narragansett must apply the Standards for Connecting Distributed Generation 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.
(2) That 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;

[1] A copy of the filings in this matter can be reviewed at the PUC's offices at 89 Jefferson Blvd., Warwick, Rhode Island, or accessed on the PUC's website at http://www.ripuc.ri.gov/eventsactions/docket/4981page.html.

(3) That costs of transmission system upgrades are solely the subject of federal jurisdiction and may not be imposed under Narragansett's Standards for Connecting Distributed Generation;
(4) That Narragansett may not impose the cost of any required upgrades to New England Power Company's transmission system under Narragansett's Standards for Connecting Distributed Generation per R.I. Gen. Laws § 39-26.3-4.1(a);
(5) That 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;
(6) That even if the PUC had jurisdiction to authorize New England Power Company to impose the costs of transmission system upgrades on interconnecting customers under the Standards for Connecting Distributed Generation, neither ISO-NE tariff I.3.9 nor ISO-NE OP5-1 nor any other ISO Operating Procedure authorizes Narragansett or New England Power Company to impose transmission system upgrade costs on local distributed generation projects through the Standards for Connecting Distributed Generation;
(7) That neither ISO-NE tariff I.3.9 nor ISO OP5-1 authorizes Narragansett or New England Power Company to require transmission studies of interconnecting distributed generation customers proposing less than 5 megawatts (MW) of capacity unless and until ISO-NE first finds potential for significant impact to the transmission system and requires a Proposed Plan Application within sixty days of Narragansett's filing of Generator Notification Forms; and
(8) That Narragansett 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 5 MW 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.

On October 25, 2019, the Diocese and Narragansett filed Agreed Facts.[2] The PUC issued an initial Notice to Solicit Comments on November 2, 2019. Following a review of comments and reply comments, the PUC considered the matter on December 17, 2019. The PUC voted to schedule the matter for further consideration. The PUC invited another round of public comment and subsequently scheduled a hearing for oral argument on February 25, 2020.

The PUC received comments from Narragansett; the Diocese; the Division of Public Utilities and Carriers (Division); Econox Renewables, Inc.; Green Development, LLC; and

[2] A copy of the Agreed Facts is marked as Appendix A and attached hereto.

Heartwood Group, Inc. The latter three generally supported the Diocese's position. Narragansett and the Division opposed the Diocese's requested declarations.

At an Open Meeting held on March 6, 2020, the PUC considered the information in the record, reviewed the law and the facts, and issued rulings on the first five of the eight requested declarations. The PUC declined to issue rulings on the three remaining requests, finding that two were within the jurisdiction of the Federal Energy Regulatory Commission (FERC), and that one was not supported by the Agreed Facts.

At the outset, the PUC thanks the Diocese for raising these important questions. The Diocese is a sympathetic petitioner and has a laudable goal of investing in clean energy to both save the earth and support its camp for children. Unfortunately, the Diocese's available land for the project is in a part of the state that has few customers and low electric demand. The electric distribution system in that area was built to satisfy the need in that area. Connecting to the distribution system in that area would affect other parts of the electric distribution system and, possibly, the transmission system. Such impacts could cause the need for significant system modifications to both the distribution and transmission system. This may make the project uneconomic. That would be unfortunate given the goals of the Diocese in pursuing this project. State law provides opportunities for investors to make money on renewable energy projects. It cannot, however, be read to make uneconomic projects economic by shifting cost responsibility in a manner contrary to state and federal law and regulations.

The state and federal governments have several incentives which provide opportunities for financial benefit to renewable energy participants.[3] Investors generally proceed when they can

[3] The costs of the financial incentives and programs for investors are, to a certain extent, borne by other ratepayers and taxpayers through programs like net metering, feed-in tariffs, or tax credits. These costs are recovered from the general body of ratepayers and taxpayers.

make money on a project. A project is unlikely to be built if it is not likely to result in financial benefit to the investors. State and federal laws and regulations assign the cost of development to investors. Where the assignment of costs is unclear or leaves gaps, it falls to the PUC to provide clarity and fill in those gaps through its statutory authority to set just and reasonable rates. The questions of federal and state jurisdiction and statutory interpretation are at the heart of this ruling.

II. Electric Transmission System and Electric Distribution System

The terms transmission and distribution refer to the different stages of carrying electrical power over poles and wires from generators to a home or a business, or from a customer's own distributed generation resource back to the electric grid. The primary distinction between the two is the voltage level at which electrical power moves in each stage. Combined, transmission and distribution lines make up what is commonly called the electric grid.[4]

Transmission can be thought of as the "interstate highway" of electricity delivery. It refers to the part of electricity delivery that moves bulk electricity from generation sites over long distances to substations closer to areas of demand for electricity. If transmission is thought of as the interstate highway of the grid, distribution is the city street. It is the last leg of the delivery of electrical power from the generation source to the consumer. Power travels on the distribution system at a voltage level that can be delivered directly to a home or business.[5] While transmission and distribution are different stages of transporting power, neither presently operates independently of the other. The electric grid is an interconnected, interdependent system of equipment that is constructed in a manner to provide safe and reliable service at all times.

[4] PJM Learning Center, Transmission and Distribution; https://learn.pjm.com/electricity-basics/transmission-distribution.aspx (last visited Mar. 4, 2020).
[5] *Id.*

Because of this interconnectedness, the transmission system can have an impact on the distribution system and, likewise, changes to the distribution system can have an impact on the transmission system equipment and operation. Therefore, the planning of changes to the electric grid is subject to various tariffs and operating procedures, whether they be subject to federal jurisdiction or state jurisdiction.

In New England, the transmission planning process is governed by the regional transmission operator, ISO-NE. ISO-NE is responsible for coordinating and directing the flow of electricity over the region's high-voltage transmission system, administering the wholesale energy markets, and planning to meet the region's power system needs over the next ten years. It is under these planning responsibilities that ISO-NE has procedures in place to ensure that transmission providers conduct studies of their systems prior to allowing any additions to either the distribution or transmission system that might affect the safe and reliable transmission of power along the transmission grid.[6] ISO-NE is subject to FERC jurisdiction.

III. Federal/State Jurisdiction Transmission

This case raises the issue of federalism: the relationship between federal and state regulatory jurisdiction. In some areas, the jurisdiction is exclusive to the federal regulatory authority or the state regulatory authority. In the setting of retail rates, there is a sharing of jurisdiction. The state retains authority to set the rates for intrastate transactions. The state also retains jurisdiction to set the method of cost recovery from customers located within its state for federally set interstate rates. The state, however, cannot set the interstate rates.

[6] ISO-NE, Power System Planning, https://www.iso-ne.com/about/what-we-do/three-roles/system-planning (last visited Mar. 29, 2020; ISO-NE, Transmission Planning, https://www.iso-ne.com/system-planning/transmission-planning/ (last visited Mar. 29, 2020).

New England Power Company is a transmission owner and is responsible for the safe and reliable operation of the transmission system under its control. New England Power Company's rates and conduct are governed by tariffs approved by FERC. Narragansett is an electric distribution company; it is responsible for the safe and reliable operation of its electric distribution system in Rhode Island. Narragansett must operate the distribution system in a manner that does not disrupt other electric power systems, including its neighboring distribution companies and interconnected transmission systems. These neighboring electric power systems are known as "Affected Systems."

FERC's jurisdiction is defined in section 201(b)(1) of the Federal Power Act. It states in pertinent part: "[t]he provisions of this subchapter shall apply to the transmission of electric energy in interstate commerce and to the sale of electric energy at wholesale in interstate commerce, but...shall not apply to any other sale of electric energy."[7] In FERC Order 888, FERC addressed jurisdictional issues related to transmission and local distribution. It "clarified that it has exclusive jurisdiction over unbundled retail transmission in interstate commerce...up to the point of local distribution."[8] FERC also has exclusive jurisdiction over "all facilities for such transmission or sale of electric energy."[9]

The wholesale rate recovery of transmission costs, as with wholesale rate recovery of any other cost, is subject to FERC review.[10] The PUC is prohibited from reviewing the propriety of FERC-approved rates. It must allow Narragansett full recovery of costs properly assessed by New

[7] 16 U.S.C. § 824(b)(1) (1994).
[8] 75 FERC 61,080 (Apr. 24, 1996); https://www.ferc.gov/legal/maj-ord-reg/land-docs/rm95-8-00w.txt.
[9] 16 U.S.C. § 824(b).
[10] Lawrence R. Greenfield, An Overview of the Federal Energy Regulatory Commission and Federal Regulation of Public Utilities; https://www.ferc.gov/about/ferc-does/ferc101.pdf (site last visited Mar. 4, 2020). *See The Narragansett Electric Co. v. Public Utilities Comm'n.*, 773 A.2d 237, 238-39 (R.I. 2001), explaining that during the relevant period, New England Power had provided interstate transmission services to Narragansett, for which New England Power charged rates allowed by FERC.

England Power or ISO-NE to Narragansett under FERC-approved tariffs. FERC has the jurisdiction over transmission tariffs while the PUC has jurisdiction over the retail rate recovery of costs incurred under the FERC-approved transmission tariffs.[11] The PUC does this through approval of various distribution company tariffs.

Tariffs include the filed rates approved by the appropriate regulatory agency. A transmission company such as the New England Power Company has its approved tariffs on file with FERC. Each Rhode Island electric distribution company, including Narragansett, has its approved tariffs on file with the PUC. Narragansett is a customer of New England Power Company. New England Power Company assesses FERC-approved charges to Narragansett. Narragansett, in turn, allocates to and collects those transmission costs from its retail customers in a manner approved by the PUC.[12]

New England Power Company has an Open Access Transmission (OATT) Tariff approved by FERC. The OATT assigns the cost of constructing new facilities on the transmission system to the transmission customer, including an affiliate.[13] Narragansett is the transmission customer in this case. The PUC is required to treat these costs as just and reasonable, if appropriately charged to Narragansett by New England Power Company.[14] Treating the expenses incurred by an electric distribution company charged under a FERC-approved tariff by the regulated utility,

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[11] In *Nantahala Power & Light v. Thornburg*, 476 U.S. 953, 965 (1986), the Court explained, "a state utility commission setting retail prices must allow, as reasonable operating expenses, costs incurred as a result of paying a FERC-determined wholesale price." The Court further stated, "a State may not exercise its undoubted jurisdiction over retail sales to prevent the wholesaler-as-seller from recovering the costs of paying a FERC-approved rate". *Id.* at 970.

[12] PUC Order No. 15382 (Sept. 4, 1997); https://clerkshq.com/Content/PUC-ri/orders/1997/15382.htm. In this order, entered shortly after passage of the Utility Restructuring Act, the PUC explained that transmission costs will be assessed under FERC approved tariffs. The charges would then be collected from retail customers in Rhode Island through the base transmission charge and transmission service cost adjustment provision approved by the PUC.

[13] *See* (Section 24.6 and Attachment DAF of Schedule 21-NEP to the OATT).

[14] *The Narragansett Electric Co. v. Burke*, 381 A.2d 1358 (R.I. 1977).

such as New England Power Company, does not preempt the PUC from determining the way those costs are recovered from retail customers of Narragansett.

Commencing in 1997, following the passage of the Utility Restructuring Act (URA), the PUC has been required to set transmission charges separately from generation and distribution charges. In the first case following passage of the URA, the PUC determined that recovery of transmission charges for transmission facilities that served all retail customers would be collected through a base transmission charge and a transmission service cost adjustment provision based on cost allocation principles. That is the same way the PUC currently allows retail rate recovery of transmission expense Narragansett incurs to serve its broad customer base.[15] This methodology follows longstanding and generally accepted cost causation principles.

IV. Federal/State Jurisdiction Interconnection Costs

Interconnection of distributed generation is subject to both federal and state jurisdiction. The Agreed Facts characterize the proposed facility as a qualifying facility[16] which will be engaged in net metering under State law. Under federal regulations, Narragansett is obligated to purchase the energy and capacity from a qualifying facility.[17] The rates to be paid to the facility under this obligation are set forth in the state's net metering statute. Narragansett also has the obligation to interconnect a qualifying facility to meet Narragansett's obligation.[18] The federal regulations provide that "[t]he obligation to pay for any interconnection costs shall be determined in accordance with [18 CFR] § 292.306."[19]

[15] RIPUC No. 2198 (Sept. 1, 2018).
[16] 18 CFR 292.101(b)(1) defines a qualifying facility as a cogeneration facility or a small power production facility that is a qualifying facility under Subpart B of this part. Subpart B applies to the criteria for and manner of becoming a qualifying small power production facility and a qualifying cogeneration facility under sections 3(17)(C) and 3(18)(B), respectively, of the Federal Power Act, as amended by section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA).
[17] 18 CFR § 292.803(a).
[18] 18 CFR § 292.303(c)(1).
[19] *Id.*

In its regulations, FERC recognizes the federal versus state jurisdiction. FERC sets forth the requirements that electric distribution companies must interconnect qualifying facilities and makes it clear that interconnecting customers are responsible for interconnection costs. FERC, however, specifically recognizes that it is State regulatory authorities that determine which interconnection costs are allocated to the customer interconnecting to the electric distribution system. FERC regulation provides:

> (a) Obligation to pay. Each 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.
> (b) Reimbursement of interconnection costs. Each State regulatory authority (with respect to any electric utility over which it has ratemaking authority) and nonregulated utility shall determine the manner for payments of interconnection costs, which may include reimbursement over a reasonable period of time.[20]

Title 18 CFR § 292.101(b)(7) defines interconnection costs:

> Interconnection costs means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent such costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.

There is no dispute that the Diocese's proposed project meets the federal definition of qualifying facility. Neither is there any dispute that the proposed project meets the definition of an eligible net metering system under the State's net metering law. There is, however, a dispute over whether the cost of transmission system studies or transmission system modifications can be

[20] 18 CFR § 292.306.

allocated to any distributed generation customer under the Standards for Connecting Distributed Generation tariff in Rhode Island under either state or federal law.

V. Declaratory Rulings and Analysis

A. Regardless of which Standards for Connecting Distributed Generation applied to the Diocese at any point in time since the Diocese's application, the resulting study costs and potential ASO cost responsibility would have been the same[21]

1. Affected System Operator Study Costs

The Diocese contends that under Tariff RIPUC No. 2163, the term Affected System was not defined to include any transmission interests at the time of the Diocese's application for interconnection. The Diocese is incorrect; electric power systems operated by transmission companies were Affected Systems under both tariffs.[22]

Tariff RIPUC No. 2163 defined an Affected System as "[a]ny neighboring electric power system not under the control of Narragansett (i.e., a municipal electric light company or other regulated utility)."[23] This definition would include Pascoag Utility District, Block Island Utility District, Eversource, and New England Power. New England Power's control of the transmission system is the control of an electric power system. That electric power system is not under the control of Narragansett.[24] New England Power is regulated by FERC. Therefore, even under the prior tariff, New England Power Company is an affected electric power system. The addition of

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[21] This question was the fifth question addressed by the PUC at its open meeting. However, a discussion of Affected Systems is a common theme in the decisions and should be addressed first.

[22] The following shows a redlined comparison of the definition between RIPUC No. 2163 and RIPUC No. 2180.

> Affected System: Any neighboring <u>transmission or distribution</u> [electric power system] not under the control of the Company (e.g.~~i.e.~~, a municipal <u>utility,</u> ~~electric light company~~ or other regulated <u>distribution or transmission</u> utility<u>, which may include Affiliates, or ISO-NE, as defined herein</u>).

[23] RIPUC No. 2163, Sheet 3.

[24] This is a point highlighted by the Diocese at oral argument. Hr'g. Tr. at 30.

the term "transmission" in the current tariff was a clarification to the then-existing definition rather than a substantive change to the definition.

The Diocese also argued that it could not be assessed study costs for affected transmission systems under Tariff RIPUC No. 2163. However, both Tariff RIPUC No. 2163 and the current Tariff RIPUC No. 2180 include the following language:

> 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.

There is no conflict here.[25] Under either tariff, Narragansett may pass through the costs assessed to its customer's project for Affected System studies, including transmission system studies.

2. Affected System Modification Costs

Tariff RIPUC No. 2163 was silent as to the cost responsibility for Affected System modification costs. Tariff RIPUC No. 2180 was amended to state that "Interconnecting Customers shall be directly responsible to any Affected System operator for the costs of any system modifications necessary to the Affected Systems."[26] At the hearing in Docket No. 4763, the docket in which the PUC considered the amendments to Tariff RIPUC No. 2163, Narragansett's witness explained that the inclusion of the language was to codify the then-current practice.[27] The Diocese has argued that including language to codify this practice was a substantive change to the tariff. It viewed the silence in Tariff RIPUC No. 2163 as a prohibition on the practice when compared to a specific allowance in Tariff RIPUC No. 2180. Thus, the Diocese argued that, even if such a

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[25] This language is also included in the Feasibility Study, Impact Study, and Detailed Study Agreements in both RIPUC No. 2163 and RIPUC No. 2180.
[26] 2180 Section 5.4 Sheet 40
[27] Docket No. 4763 Hr'g. Tr. at 19.

practice were legal, it could only be applied to projects seeking interconnection after September 6, 2018, the effective date of Tariff RIPUC No. 2180. The PUC disagrees. The additional language represented a clarification of and not a modification to then-current practice.

The Rhode Island Supreme Court has stated that "all tariffs should be interpreted in accordance with equity and good conscience regardless of the specific language in which they may be couched."[28] Tariff RIPUC No. 2163 did not prohibit Narragansett's practice of passing the cost of Affected System modifications on to the customer causing the need for those modifications. Although the written order did not specifically address whether the amendment constituted a material change, the question was the subject of substantial unopposed testimony at the evidentiary hearing.[29]

At the January 25, 2018 hearing, Narragansett's witness Timothy Roughan testified that Narragansett would charge the customer for the Affected System modification on New England Power's behalf. It would be characterized as a New England Power charge rather than a Narragansett charge.[30] At the same hearing, Narragansett witness John Kennedy testified that over the previous couple of years, while Tariff RIPUC No. 2163 was in effect, Narragansett had passed such costs on to distributed generation customers.[31] Mr. Kennedy further explained that the customer is advised of the source of the Affected System operator charge.[32] Thus, when the PUC approved the new language, it was clear the language was simply codifying the then-current practice and not adding a new requirement.

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[28] *Narragansett Elec. Co. v. Public Utilities Comm'n.*, 773 A.2d 237, 242 (R.I. 2001).
[29] The PUC notes that a collaborative of distributed generation developers did file public comments opposing the inclusion of this language for the same reasons proffered by the Diocese in this matter.
[30] Docket No. 4763 Hr'g Tr. at 17-18 (Jan. 25, 2018).
[31] *Id.* at 20-22.
[32] *Id.* at 25-26.

Furthermore, in considering whether Narragansett was charging for upgrades to its electric power system or was instead passing through costs caused by the distributed generation customer for its project's effect on other electric power systems, the PUC was examining whether this practice ran afoul of R.I. Gen. Laws § 39-26.3-4.1. Narragansett was only charging customers for costs associated with upgrades to its electric power system. It has been acting as an administrative "pass-through" agent for other Affected Systems who have no other way of charging for their costs caused by the impact of the distributed generation customer on their system.

The PUC approved RIPUC No. 2180, finding the proposed modifications to be in compliance with R.I. Gen. Laws § 39-26.3-4.1. The PUC has no reason to reconsider that decision in this declaratory ruling.[33]

B. Neither R.I. Gen. Laws § 39-26.3-4 nor 18 C.F.R § 292.306 prohibits the assessment of transmission system impact study costs to interconnecting distributed generation customers.

First, the Diocese is arguing that they cannot be required to contribute to the affected transmission system operator study costs under federal law. This is inaccurate. Federal regulations set forth in 18 CFR § 292.306 do not prohibit the PUC from assessing Affected System operator study costs, including those conducted by the transmission companies, to interconnecting customers. The cited regulations are silent as to study costs. However, system impact studies are required to determine the reasonable costs of interconnection. Thus, they are integral to the cost of interconnection. This has been specifically recognized in R.I. Gen. Laws § 39-26.3-4.

As noted above, every version of the Distributed Generation Interconnection Standards tariff has allowed the cost of Affected System Operator studies to be allocated to the interconnection distributed generation customer. New England Power Company has always been

[33] Order No. 23379 at 2, 10 (Jan. 4, 2019).

an Affected System under each version of the Distributed Generation Standards for Interconnection tariffs. The PUC does not regulate New England Power Company. As discussed above, the PUC cannot tell New England Power Company how to assess its charges through its FERC-approved tariffs. But, the PUC can approve the way Narragansett collects those costs from retail customers, consistent with State law. To reiterate, recovering the costs caused by a distributed generation interconnecting customer is consistent with well-established principles of cost causation.

Second, the Diocese is arguing that even if a distributed generation interconnecting customer can be charged for Affected System operator costs (including transmission study costs), R.I. Gen. Laws § 39-26.3-4 allows them to get a free study unless they achieve commercial operation, in which case, the cost would be rolled into the final accounting. This is also incorrect. The recovery provision set forth in R.I. Gen. Laws § 39-26.3-4 does not apply to this situation. The law applies to the fees Narragansett can charge to conduct its own studies. Narragansett is not conducting an affected system study. An Affected System Operator of a system over which Narragansett does not have control is conducting the study. Therefore, this law does not apply.

The PUC notes that R.I. Gen. Laws § 39-26.3-3(f) properly recognizes that the State does not have jurisdiction over renewable energy resources seeking a direct interconnection to the transmission system because those are under the jurisdiction of FERC. Likewise, the State has no authority to require Narragansett to absorb costs charged by New England Power through a FERC-approved tariff. Reading the recovery provision of R.I. Gen. Laws § 39-26.3-4(c) in the manner proposed by the Diocese could lead to a "trapping" of federal costs with Narragansett. A law cannot be read to produce an absurd or illegal result.[34]

Furthermore, R.I. Gen. Laws § 39-26.3-4(c) states that if the impact study fees established under subsection (b)(6) are insufficient to cover the reasonable cost of the impact study, the customer must pay those additional costs after the project is online. If a project with study costs in excess of the tariffed study fee never goes online, the customer never has to pay those excess costs. Thus, in a case with no Affected System operator study costs, the State has determined that Narragansett must undertake impact studies with a risk it will not recover the full costs. Such a determination is within the State's jurisdiction where the incurrence of costs is within Narragansett's control. In that instance, Narragansett must absorb those costs into its distribution revenue requirement.

In this case, the PUC must assume that New England Power is properly charging Narragansett for its cost of studying the transmission system to determine what, if any, impact the distributed generation projects, seeking interconnection to the distribution system, would have on the transmission system. As noted above, the PUC must provide for Narragansett to recover those costs. If the Diocese is correct that the study cost fees set forth in R.I. Gen. Laws § 39-26.3-4(b)(6) are inclusive of NEP's transmission study costs and the project never goes online, Narragansett

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[34] A federal cost is trapped when the utility properly incurs the expense under a FERC-approved tariff and no cost recovery is allowed. As Narragansett explained in its Memorandum of Law:

> Applying the filed rate doctrine, the Supreme Court has held that state regulators are barred from setting rates that would have the effect of trapping costs by categorically excluding costs under a FERC tariff from recovery through retail rates. Entergy Louisiana, 539 U.S., at 39; Nantahala, 476 U.S., at 968, 970. "When FERC sets a rate between a seller of power and a wholesaler-as-buyer, a State may not exercise its undoubted jurisdiction over retail sales to prevent the wholesaler-as-seller from recovering the costs of paying the FERC-approved rate. Such a 'trapping' of costs is prohibited." Nantahala, 476 U.S., at 970. "States may not bar regulated utilities from passing through to retail customers FERC-mandated wholesale rates." Mississippi Power & Light Co. v. Mississippi ex rel. Moore, 487 U.S. 354, 372, 108 S.Ct. 2428, 2439 (1988).

Narragansett Mem. at 13 (Nov. 22, 2019).

could be left with federally approved costs that it cannot collect. This is a trapping of federally approved transmission costs.[35] The PUC cannot support such an interpretation of the law.

C. Regardless of whether transmission system modification costs are subject to federal jurisdiction, the costs of transmission system modifications incurred by Narragansett, caused by an interconnecting distributed generation customer, may be allocated to that interconnecting distributed generation customer through inclusion in Narragansett's Standards for Connecting Distributed Generation

D. R.I. Gen. Laws § 39-26.3-4.1(a) neither prohibits Narragansett from passing through the cost of any required upgrades to New England Power Company's transmission system nor precludes inclusion of this cost allocation in Narragansett's Standards for Connecting Distributed Generation

1. Ripeness

The Diocese has not yet been assessed any Affected System modification costs and may not be. Thus, the PUC could decline to make any declaratory rulings on this topic. This issue, however, is important enough and the likelihood that Affected System modification costs would be assessed on a customer is such that not making a ruling would simply be deferring the inevitable and therefore, it is appropriate to address the issues here.

2. Affected System Modification Cost Responsibility – Distribution v. Transmission

Projects connecting to the Narragansett distribution system may cause operators of neighboring electric power systems to incur costs for system modifications. At oral argument, the Diocese originally agreed that an interconnecting distributed generation customer could be charged for system modifications that may be required due to the project's impact on Pascoag Utility

[35] Under the Diocese's reasoning, not only would Narragansett be absorbing New England Power Company's costs, but a neighboring distribution utility which could be an Affected System may have to conduct a study. At oral argument, the Diocese originally agreed that the customer would have to pay Pascoag for its system impact study, but later changed its position. Hr'g. Tr. at 25, 79-80. It would be illogical if Pascoag's customers were forced to absorb study costs caused by a Narragansett customer interconnecting to the Narragansett electric power system. It would be illogical for Narragansett to absorb Pascoag's study costs if the project never came online.

District, a neighboring electric distribution company. The Diocese later changed its position, claiming that R.I. Gen. Laws § 39-26.3-4.1(a) would prohibit charging an interconnecting distributed generation customer for modifications of Pascoag Utility District's neighboring electric distribution system. However, the Diocese stated that the interconnecting customer would have to agree to pay for those modifications or the project would not proceed.[36]

It appears from these statements that the Diocese both believes that state law prohibits the allocation of affected distribution system operator modification costs and that the Diocese would nonetheless be responsible for those costs in order to advance its project. The Diocese's position is inherently illogical. Either the distributed generation customer is legally responsible for the costs or it is not. It is irrelevant if the Affected System is a distribution or transmission system. Simply put, the Diocese's argument is not supported by the law. Neither federal law nor state law prohibits the allocation of Affected System modification costs, whether distribution or transmission, to distributed generation customers causing the need for those modifications.

3. Federal Law and the Standards for Connecting Distributed Generation

While federal law dictates the allocation of transmission company costs to the distribution company, nothing in federal law abrogates the PUC's jurisdiction over setting retail rate recovery. Therefore, inclusion of language in the Standards for Connecting Distributed Generation clarifying that retail cost allocation to the customer causing the cost is not prohibited under federal law.

For expenses passed through a FERC-approved tariff, the PUC retains the jurisdiction to set the design of the recovery of those costs from the electric distribution company's customers in a manner that is just and reasonable and which does not discriminate between similarly situated

[36] Hr'g. Tr. at 80-81.

customers.[37] This is also applicable to interconnection-related costs. Title 18 CFR § 292.306 recognizes the federal versus state jurisdiction by specifically stating that it is state regulatory authorities that determine which interconnection costs are allocated to the customer interconnecting to the distribution system.[38]

In this case, the Diocese is being treated the same as other interconnecting distributed generation customers and other types of customers who might attempt to connect 2.2 MW of load to the distribution system.[39] The PUC's decision to approve tariff language that specifically required interconnecting customers to pay Affected System modification costs caused solely due to the interconnecting customer's request to interconnect to the distribution system is within the PUC's ratemaking authority. The decision approving the current Standards for Connecting Distributed Generation, Tariff RIPUC No. 2180, was not appealed. There is nothing in federal law that prohibits the allocation of transmission system modification costs to the Diocese and, in fact, federal law supports the PUC's authority to allocate those costs in a manner it finds just and reasonable.

Absent a request to interconnect, Narragansett would not have had to seek review of the project(s) by NEP under ISO-NE's authority. If transmission system modifications are required, it will not be because Narragansett required the modifications as a result of general increased customer load, but rather, because of one or more distributed generation project interconnection

[37] The allocation of interconnection costs to the interconnecting customer is consistent with Narragansett's line extension policies for non-generating customers to connect to the distribution system. *See* supra note 15 and accompanying text.
[38] "Each qualifying facility shall be obligated to pay any interconnecting costs which the State regulatory authority…may assess against the qualifying facility on a nondiscriminatory basis with respect to other customers with similar load characteristics." 18 CFR § 292.306(a).
[39] RIPUC No. 2217, Policy 3.

requests. Assessment of those system modification costs to the customer causing the costs is consistent with longstanding principles of cost causation.[40, 41]

To provide an analogy to other types of customers, the PUC has approved other cost causation policies that allocate to a specific customer the cost of extending the electric distribution system to that customer. The line extension policies apply when a customer "requests that a distribution line and/or other facilities necessary to properly supply electricity to the [c]ustomer's facilities be installed" to meet the customer's new or expanded load.[42] In the event the customer seeking the extension of distribution facilities to serve his or her new facility causes costs in excess of the future revenues Narragansett expects to receive from the customer, that customer is directly responsible for the excess costs. Those costs can be distribution or transmission related costs. Thus, the customer is charged for the costs he or she causes to interconnect his or her facility.

[40] As previously explained, transmission costs attributable to the general body of Narragansett's Rhode Island ratepayers are passed through the transmission tariff in a manner that allocates expenses to each customer class based on how much it costs, on average, to serve that class. As explained in this decision, such treatment can be distinguished from the line extension policies that, similar to the situation here, allocate to a single customer costs caused by a specific customer to connect to the distribution system.

[41] The policy behind allocating to customers the costs they cause to the electric system is to send price signals to customers. The absence of such price signals would result in the development of renewable energy that may not be cost-effective. As previously discussed, projects that will not provide investors with a return on their investment are not likely to be built. Allowing renewable energy developers to escape the cost of transmission system modifications resulting from connecting their project to the distribution system by simply passing those costs on to all other customers would provide no incentive to only develop projects that are cost effective for both the investor and the general body of ratepayers. Such a decision would increase the cost of renewable energy to Narragansett's ratepayers without a record supporting such a cost shift.

[42] RIPUC No. 2217 (Jan. 15, 2019). The difference between the line extension policy and the distributed generation interconnection tariff is that a new "load" customer will provide future distribution revenue to Narragansett rather than being paid revenue by Narragansett customers. Because of this situation, Narragansett calculates the cost of interconnection/extension of the distribution facilities necessary to serve the customer and uses projected revenues to offset the cost. If the future revenues are expected to completely offset the cost, there is no payment owed by the customer. If, however, the future revenues are expected to be insufficient to offset the cost, the customer owes that difference. That difference and the resulting cost is called a contribution in aid of construction. The rationale is that the new customer should not be charged for interconnection costs if those costs are lower than the expected additional revenues the company expects to receive. Customers benefit from more usage across which to spread capital costs.

Charging a distributed generation customer for his or her costs of interconnection follows the same cost causation principles.[43]

4. The Diocese's Reliance on FERC Order 1000 is Misplaced

The Diocese argued that New England Power and Narragansett should have sought to have the Diocese's project designated as a Public Policy Transmission Upgrade that would qualify for regionalization of the costs associated with transmission system modifications.[44] According to the Diocese, under its interpretation of Order 1000, its project should be subject to regional cost allocation rather than customer-specific cost allocation.[45] After a review of Narragansett's papers, Order 1000, and the ISO-NE regional process, the PUC finds the Diocese's reliance on Order 1000 to be misplaced. There are currently no identified Public Policy Requirements that would lead to a project being designated as a public policy transmission upgrade in New England.

FERC Order 1000 resulted in a Final Rule that provided for changes to the transmission planning process to include planning for identified public policy transmission upgrades. It also included a requirement that such projects be subject to a regional cost allocation formula.[46] In

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[43] In the situation of a distributed generation facility, rather than the customer providing future revenues to the electric system, thus benefiting other customers, distributed generation the customer will be paid by Narragansett's distribution customers. Thus, the cost of interconnection cannot be offset by future expected revenues. The design of the retail cost recovery for each type of customer is based on cost causation principles.

[44] Hr'g. Tr. at 70-71.

[45] *Id.*

[46] With respect to transmission planning, FERC's rule issued in Order 1000:

> (1) requires that each public utility transmission provider participate in a regional transmission planning process that produces a regional transmission plan; (2) requires that each public utility transmission provider amend its OATT to describe procedures that provide for the consideration of transmission needs driven by public policy requirements in the local and regional transmission planning processes; (3) removes from Commission-approved tariffs and agreements a federal right of first refusal for certain new transmission facilities; and (4) improves coordination between neighboring transmission planning regions for new interregional transmission facilities. Also, [the] Final Rule requires that each public utility transmission provider must participate in a regional transmission planning process that has: (1) a regional cost allocation method for the cost of new transmission facilities selected in a regional transmission plan for purposes of cost allocation; and (2) an interregional cost allocation method for the cost of certain new transmission facilities that are located in two or more neighboring transmission planning regions and are jointly evaluated by the regions in the interregional transmission coordination procedures required by this

New England, if a project were to qualify as a Public Policy Transmission Upgrade, the costs would be allocated 30% to Rhode Island and 70% to the rest of New England. As noted in both the Diocese's Reply Brief and in Narragansett's Comments submitted on January 23, 2020, those requirements have been incorporated in Section B.6 of Schedule 12 of the ISO-NE Tariff. This tariff is a FERC-approved tariff, subject to federal jurisdiction. The State, however, has a role in this process as a member of the New England Committee on Electricity (NESCOE).[47]

In 2017, to comply with the FERC Order 1000 requirements, ISO-NE conducted a process designed to identify Public Policy Transmission Upgrades. ISO-NE sought input from stakeholders. NESCOE provided comments on whether there were any state policies necessitating transmission upgrades. The result of the 2017 process was that there were no identified public policies necessitating transmission upgrades: "NESCOE is not requesting that ISO-NE initiate a Public Policy Transmission Study in the current planning cycle. NESCOE has determined that, at this time…there are no state or federal [Public Policy Requirements] 'driving transmission needs relating to the New England Transmission System.'"[48] The process is required to be repeated at least every three years. ISO-NE and the NESCOE are currently engaged in the 2020 review.[49]

The Diocese strenuously maintained that federal law does not allow transmission system modifications to be allocated to distributed generation customers because FERC Order 1000

Final Rule. Each cost allocation method must satisfy six cost allocation principles. FERC Order 1000 (136 FERC ¶ 61,051); https://www.ferc.gov/whats-new/comm-meet/2011/072111/E-6.pdf.

[47] NESCOE is a not-for-profit entity that represents the collective perspective of the six New England Governors in regional electricity matters and advances the New England states' common interest in the provision of electricity to consumers at the lowest possible prices over the long-term, consistent with maintaining reliable service and environmental quality. http://nescoe.com/ (last visited Mar. 25, 2020).

[48] NESCOE Submission Regarding Transmission Needs Driven by State and Federal Public Policy Requirements; https://www.iso-ne.com/static-assets/documents/2017/05/nescoe_submission_public_policy_transmission_upgrades.pdf (last visited Mar. 25, 2020).

[49] The information on the 2020 process as well as the 2017 process can be found on ISO-NE's website: https://www.iso-ne.com/system-planning/system-plans-studies/public-policy-transmission-upgrades/ (last visited Mar 25, 2020).

requires those to be considered public policy transmission upgrades subject to regional cost allocation. In the absence of any identification of public policy requirements by the states, such argument is clearly inapplicable to the Diocese's project. As the Diocese conceded at oral argument, New England Power Company could not have been reasonably expected to plan for any one specific project, such as the Diocese's project.[50] Neither are transmission owners required to plan for public policy requirements that have not been identified through the ISO-NE process.

Finally, just because a project, if constructed, may advance a state policy and may cause the need for a transmission system modification, those facts alone, likely do not automatically mean the transmission system modifications related to those types of projects are public policy projects. Rhode Island has many renewable energy goals. These goals are even included in state statutes that encourage and compensate certain types of renewable energy facilities. While these different programs may present pathways toward meeting Rhode Island's renewable energy goals, those goals may be met in alternative ways that do not require transmission as the primary or necessary means of meeting those goals. For any state to identify a public policy requirement necessitating a transmission solution, it would seem there would need to be no other reasonable alternative means of meeting that public policy requirement.

5. State Law and the Standards for Connecting Distributed Generation

The Diocese has posited that R.I. Gen. Laws § 39-26.3-4.1(a) prohibits Narragansett from passing through costs associated with Affected System modifications. The sentence the Diocese is relying on states: "[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." The Diocese suggests that the General

[50] Hr'g. Tr. at 91-92.

Assembly intended for this language to: (1) prohibit Narragansett from passing through transmission costs; and (2) move away from well-established cost causation principles.[51]

On the first point, as discussed in the Division's Comments, the statute "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 [New England Power]."[52] This is consistent with the PUC's explanation above that the cost being allocated is not Narragansett's charge, but New England Power Company's charge which is passed through its transmission customer to the ultimate cost causer. Therefore, the statute does not apply to this situation.

On the second point, the PUC finds that the Diocese is distorting the meaning of the plain language of the statute. If anything, this sentence reinforces the intent to continue to apply well-accepted principles of cost causation. This sentence prohibits Narragansett from charging an interconnecting customer for costs not specifically necessary nor directly related to the interconnection. Thus, it is making clear that the interconnecting customer may only be charged for costs it is causing. R.I. Gen. Laws § 39-26.3-4.1 is silent as to the assessment of Affected System modification costs. Affected Systems are those that are not under the control of Narragansett. They include potentially, Pascoag Utility District, Block Island Utility District, Eversource, and NEP. Therefore, this provision is inapplicable to those costs.

Similarly, continuing to follow cost causation principles, the PUC has approved policies that allocate to a specific customer the cost extending the electric distribution system to that

[51] At oral argument, Counsel to the Diocese asserted that the R.I. Gen. Laws § 39-26.3-4.1 means that interconnection to the distribution system has no impact on the transmission system. He argued that the statute makes clear that Narragansett may not assess costs of anything other than impacts to their distribution system, not to a transmission system not under its control. Hr'g. Tr. at 29-30.
[52] Div. Comments at 6 (Nov. 22, 2019).

customer. The line extension policies apply when a customer "requests that a distribution line and/or other facilities necessary to properly supply electricity to the [c]ustomer's facilities be installed" to meet the customer's new or expanded load (usage).[53] In the event the customer seeking the extension of distribution facilities to serve a new facility causes a cost in excess of the future revenues Narragansett expects to receive from the customer, that customer is directly responsible for the excess costs. Those costs can be distribution or transmission related costs. Thus, the customer is charged for the costs he or she causes to interconnect his or her facility. Charging a distributed generation customer for his or her costs of interconnection follows the same cost causation principles.[54]

E. The PUC declines to rule that 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

The Diocese argued that R.I. Gen. Laws § 39-26.3-3(d) does not allow for Narragansett to place "holds" on the calculation of the statutory timeline for issuing an impact study. In order to allow a balanced result for both Narragansett and distributed generation customers, the PUC has never required strict application of the number of days provided for in the statute. R.I. Gen. Laws § 39-26.3-3(d) states: "[u]pon receipt of a completed application requesting an impact study and receipt of the applicable impact study fee, the electric distribution company shall provide an impact

[53] RIPUC No. 2217 (Jan. 15, 2019). The difference between the line extension policy and the distributed generation interconnection tariff is that a new "load" customer will provide future distribution revenue to Narragansett's rather than being paid revenue by Narragansett customers. Because of this situation, Narragansett calculates the cost of interconnection/extension of the distribution facilities necessary to serve the customer and uses projected revenues to offset the cost. If the future revenues are expected to completely offset the cost, there is no payment owed by the customer. If, however, the future revenues are expected to be insufficient to offset the cost, the customer owes that difference. That difference and the resulting cost is called a contribution in aid of construction. The rationale is that the new customer should not be charged for interconnection costs if those costs are lower than the expected additional revenues the company expects to receive. Customers benefit from more usage across which to spread capital costs.

[54] In the situation of a distributed generation facility, rather than the customer providing future revenues to the electric system, thus benefiting other customers, distributed generation the customer will be paid by Narragansett's distribution customers. Thus, the cost of interconnection cannot be offset by future expected revenues. The design of the retail cost recovery for each type of customer is based on cost causation principles.

study within ninety (90) days." The PUC recognizes that the plain language of the subsection includes a "shall" and does not have stated exceptions. The PUC also notes, however, that there is no statutory penalty to Narragansett if it misses the deadline.

The question is whether this subsection was intended to be an absolute deadline that Narragansett must meet regardless of the actual circumstances surrounding any particular study. The PUC has consistently declined to impose such a requirement. Each version of the Distributed Generation Interconnection Standards has allowed for "holds" to be placed on the clock. These "holds" have been allowed to account for circumstances outside of Narragansett's control, changes to the application by the customer, a request by the customer to place the application on hold, or by mutual agreement.

There are good reasons for allowing such a practical reading of the statute. The availability of "holds" on the running of the clock assists customers as well as Narragansett. For example, a customer may request a hold to be placed on the application if he or she runs into local permitting issues. Another example is what occurs after Narragansett has studied the project for twenty business days. After the project has been studied for twenty business days, a meeting is scheduled with the customer so Narragansett can advise whether the study in progress will likely result in significant system modifications and associated costs. Narragansett provides the customer with the option of continuing forward or modifying the proposed project to reduce those costs. This gives the customer the ability to keep the project in its place in line while the customer has time to decide and potentially provide modifications to the application. Without this ability for the customer to request a hold, Narragansett would study the project as submitted, issue an impact study with associated costs, and if the result was not cost-effective, the customer would have to start all over in the process.[55]

In the case of an Affected System study, Narragansett does not have all the information available to issue a distribution impact study without all cost information from the Affected System operator. There may be distribution system modifications that result from such studies. In the event Narragansett were to be held to a strict timeline, it could not issue a study with complete cost data on time. The statute cannot be read to lead to such an impossible result.

F. On the Diocese's requests numbered 6 and 7, the PUC declines to interpret ISO-NE tariff I.3.9, ISO-NE OP5-1, or any other ISO Operating Procedure because interpretation of these tariffs lies squarely within the jurisdiction of the Federal Energy Regulatory Commission

As explained above, ISO-NE tariffs are subject to the jurisdiction of FERC and not the PUC. The PUC, therefore, lacks subject matter jurisdiction to interpret these tariffs and operating procedures in a binding manner. The ISO-NE tariffs are approved by FERC. To the extent they require transmission owners to conduct studies of the impact on the transmission system caused by interconnecting distributed generation facilities to the distribution system, the transmission owners are bound by the tariffs. ISO-NE applies its tariff through its operating procedures (Proposed Plan Application).

Both the Diocese and Narragansett referenced the same ISO-NE publication, "The Growth of Distributed Generation: ISO-NE's Role in the Interconnection Review Process."[56] In this publication, ISO-NE provided an overview of the Section I.3.9 Proposed Plan Application (PPA)

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[55] The Diocese supported an interpretation that allowed for extensions of the 90-day timeframe by mutual agreement. Hr'g. Tr. at 79.

[56] The Growth of Distributed Generation: ISO New England's Role in the Interconnection Review Process (October 2019); https://www.iso-ne.com/static-assets/documents/2019/10/iso_new_england_interconnection_review_process_information_resource_october_2019_final.pdf (site last visited Mar. 4, 2020).

Process. ISO-NE indicated that regardless of the jurisdiction for interconnection, a DG resource may require review by the ISO pursuant to Section I.3.9 of the ISO Tariff to ensure the proposed system change does not have a significant adverse impact on the regional power system. ISO-NE also stated that this is true even in cases where the project is interconnecting under the state process.

According to ISO-NE, the Section I.3.9 PPA process has been part of the region's planning processes for decades. ISO-NE, as the Regional Transmission Organization 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.

ISO-NE explained that its Section I.3.9 process applies to the interconnection of the following DG resources: (1) New or increased generation greater than or equal to five MW: These projects must include PPA forms in their Section I.3.9 submittals to ISO-NE; (2) New or increased generation greater than one MW and less than five MW, where ISO-NE has determined such interconnection(s) will have a cumulative impact on facilities used for the provision of regional transmission service: Generator Notification Forms are submitted to ISO-NE for projects of this size, unless ISO-NE identifies that a PPA is required.[57]

G. The PUC declines to make the requested declaration that Narragansett 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 5 MW 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 because the underlying premises asserted in the claim are not supported by the Agreed Facts

The Diocese seeks a PUC declaration of a compound sentence that includes at least two factual premises not supported by the Agreed Facts. The cause of the delay of the interconnection

[57] *Id.*

has been disputed by the parties. In order to make this declaration, the PUC would have to find that the Diocese proved that Narragansett made a decision to impose transmission studies on customers" so that it can then, ultimately, assess unauthorized costs." But the record would not support such a finding. Neither of these items is addressed in the Agreed Facts. Thus, the declaratory ruling requested by the Diocese would be both inappropriate and unsupported.[58]

It is hereby:

(23811) DECLARED:

1. Regardless of which Standards for Connecting Distributed Generation applied to Petitioner at any point in time since Petitioner's application, the resulting study costs and potential ASO cost responsibility would have been the same.
2. Neither R.I. Gen. Laws § 39-26.3-4 nor 18 C.F.R § 292.306 prohibits the assessment of transmission system impact study costs to interconnecting distributed generation customers.
3. Regardless of whether transmission system modification costs are subject to federal jurisdiction, transmission system modifications caused by an interconnecting distributed generation customer may be allocated to that interconnecting distributed generation customer under Narragansett's Standards for Connecting Distributed Generation.
4. R.I. Gen. Laws § 39-26.3-4.1(a) neither prohibits Narragansett from passing through the cost of any required upgrades to New England Power Company's transmission system nor precludes inclusion of this cost allocation in Narragansett's Standards for Connecting Distributed Generation.

[58] These factual statements are currently the subject of a dispute resolution process.

5. The PUC declines to declare that 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.
6. The PUC declines to interpret ISO-NE tariff I.3.9, ISO-NE OP5-1, or any other ISO Operating Procedure because such interpretation of these tariffs lies squarely within the jurisdiction of the Federal Energy Regulatory Commission. This decision applies to the second clause of the Diocese's request number six and all of request number seven.
7. The PUC declines to make the requested declaration that "Narragansett 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 5 MW 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" because the underlying premises asserted in the claim are not supported by the Agreed Facts.

EFFECTIVE AT WARWICK, RHODE ISLAND ON MARCH 6, 2020 PURSUANT TO AN OPEN MEETING DECISION ON MARCH 6, 2020. WRITTEN RULING ISSUED APRIL 14, 2020. RULING FILED WITH THE SECRETARY OF STATE'S OFFICE ON APRIL 14, 2020.

PUBLIC UTILITIES COMMISSION

Margaret E. Curran, Chairperson

Marion S. Gold, Commissioner

Abigail Anthony, Commissioner

NOTICE OF RIGHT OF APPEAL: Pursuant to R.I. Gen. Laws §39-5-1, any person aggrieved by a decision or order of the PUC may, within seven days from the date of the order, petition the Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or order.