STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: HEXAGON ENERGY, LLC	Docket No. __________

PETITION

This petition brought by Hexagon Energy, LLC ("Hexagon") under R.I. Gen. Laws § 42-35-8 and section 1.11(C) of the Commission Rules of Practice and Procedure, asks the Commission for a declaratory judgment on the applicability of section five of The Narragansett Electric Company Renewable Energy Growth Program for Non-Residential Customers, RIPUC No. 2152-G (the "Tariff"), as approved in RIPUC Docket 4983. Section five of the Tariff prohibits segmentation of "a distributed energy project on the same parcel or contiguous parcels into smaller sized projects in order to fall under a smaller size project classification." RIPUC No. 2152-G at 7. Section five also provides a presumption of segmentation for multiple projects proposed on the same parcel or contiguous parcels unless the proposed projects meet one of the enumerated exceptions. *Id.* Hexagon contends that its proposed projects meet the fourth listed exception to segmentation.

The fourth exception allows segmentation "[i]f two or more projects proposed on the same or contiguous parcels and their combined nameplate capacity does not total to an amount that exceeds the class nameplate range of the enrollment class of the individual projects." *Id.* Hexagon's proposed projects are a carport project and a commercial-scale remote community distributed generation project. The proposed projects are in distinct enrollment classifications with distinct ceiling prices. Therefore, the proposed projects combined nameplate capacity is irrelevant and will not offend the purpose for prohibiting segmentation in the Tariff. Hexagon seeks a determination that section five of the Tariff does not apply and that both projects are eligible for a Certificate of Eligibility under the Renewable Energy Growth program.

FACTS

Hexagon is proposing two projects in Burrillville, Rhode Island. The first project (d/b/a Superior Solar LLC), located on the eastern parcel (AP 113, Lot 012 – 0 Victory Hwy), is a 991 kW, ground-mounted solar array. On December 23, 2019, National Grid awarded Superior Solar a Certificate of Eligibility (the "Certificate") in the third enrollment period of the 2019 Renewable Energy Growth ("REG") program. Pursuant to the Certificate, Superior Solar was selected to generate electricity at a price of 20.44¢/kWh for a 20-year term. The Certificate designated Superior Solar's renewable energy class as CRDG Commercial Solar. On June 2, 2020, the Commission approved Superior Solar's Certificate, effective January 15, 2020. *See* PUC Order No. 23833.

The second project (d/b/a Semistream Solar LLC, a/k/a Sparrow Solar) is planned to be sited on the western parcel (AP 113, Lot 011 – 2205 Bronco Hwy). Semistream Solar will be a 991 kW carport constructed over the landowner's existing truck parking location. Semistream Solar intends to pursue the carport adder under the new pilot program incorporated into the 2020 REG program. The carport project is eligible for the carport adder as it meets the definition of "solar carport" established by National Grid, the Office of Energy Resources, and the Distribution Generation Board.[1] Hexagon must submit a competitive bid for the Semistream Solar carport project in the Commercial Solar enrollment class before separately requesting the carport adder in the second or third enrollment periods. *See* Recommendations, Pre-filed Direct Testimony of Jim Kennerly,

[1] "Solar carport will be defined as 'the portion of the direct current ("DC") nameplate capacity of a Solar DG Project that is installed over above a permeable and/or non-permeable existing or new parking are and associated access and walkway areas (as recognized by the local municipal building and/or zoning department), which is installed in a manner that maintains the area beneath the carport." PUC Docket No. 4983, Recommendations for the 2020 Renewable Energy Growth Program Year, Pre-Filed Direct Testimony of Shauna Beland, at 30 (October 22, 2019) (the "Recommendations").

Schedule 6 (SEA Memorandum), at 73. But for the carport adder pilot program, Hexagon would not have pursued this subsequent project on the adjacent parcel to the Superior Solar project.

Hexagon has consulted with National Grid regarding this segmentation issue. While National Grid does not see these as improperly segmented projects and indicated no objection to this petition, it indicated that it lacks discretion to interpret the tariff and, therefore, may not be able to approve the enrollment of both projects in the REG program. Hence Hexagon's request of the Commission.

LEGAL ARGUMENT

Hexagon asks the Commission to authorize segmentation of the proposed projects for two reasons. First, the plain meaning of the Tariff indicates that two projects, in two distinct enrollment classifications, with two distinct ceiling prices, are not barred from siting on contiguous parcels. Second, denying this request is inconsistent with public policy and goals of the REG law.

1. The Plain Meaning of the Tariff

Pursuant to the Tariff, segmentation is disfavored to prevent developers manipulating the REG program to obtain the more generous price per kilowatt-hour for smaller-scale distributed generation projects. The Commission clarified its prohibition on segmentation in Order No. 23849 stating, "multiple projects should be allowed to enroll in the Program at the ***same time*** on contiguous parcels without violating the anti-segmentation provision, if combined, they would fall into the same class as they would if proposed separately." Dkt. No. 4983, PUC Order 23849, at 16–17 (June 24, 2020) (emphasis added). Further, Order No. 23849 characterized the clarification as "typically" applying to multifamily dwellings and multiple commercial buildings on the same parcel owned by the same entity. *Id.* at 17. That clarification became explicit in the fourth exception to segmentation in the Tariff.

The Superior Solar project and Semistream Solar carport project are consistent with the law and do not violate prohibition on segmentation. First, Hexagon's two projects were neither proposed contemporaneously nor purposely separated to benefit from greater ceiling prices. Superior Solar categorically fits into the Community Remote Commercial Solar enrollment class and appropriately bid into that class in the 2019 REG program—with the ceiling price of 20.99¢/kwh. Hexagon, at that time, did not contemplate the subsequent Semistream Solar carport project as it would not have been economically viable absent the newly created carport adder. Even if the carport adder did exist at the time of the Superior Solar bid, aggregation of the two projects nameplate capacity is irrelevant as the carport project would be required to bid into the Commercial Solar enrollment class—an entirely separate enrollment class than the Commercial Remote Distributed Generation. Thus, Hexagon's projects could never exceed the class nameplate range of the enrollment class as they would be, and are, in separate enrollment classes. Moreover, aggregating two project's combined nameplate capacity as they pursue entirely different enrollment classes is a different scenario than the one the Commission seeks to prevent (i.e., one Large Commercial Solar project attempting to divide its capacity into multiple Small Commercial Solar projects in one proposal). Since the Superior Solar project and Semistream Solar carport project cannot exceed the nameplate range of one enrollment class and were not proposed contemporaneously, the fourth exception to segmentation applies.

2. The Policies and Goals of REG

The purpose of the REG is to "facilitate and promote installation of grid-connected generation of renewable energy; support and encourage development of distributed renewable energy generation systems; reduce environmental impacts; reduce carbon emissions that contribute to climate change by encouraging the local siting of renewable energy projects; diversify the state's energy generation sources; stimulate economic development; improve distribution system resilience and reliability; and reduce distribution system costs." R.I. Gen. Laws § 39-26.6-1. The statutory goal for REG project production is forty megawatts of enrollment in 2020. Construing the prohibition on segmentation to include projects in distinct enrollment classifications with distinct ceiling prices creates barriers to achieve that goal. Semistream Solar will contribute nearly 1 MW towards the goal, if ruled eligible for a Certificate. As long as a developer makes a good faith proposal and is not manipulating the REG pricing mechanisms, as is the present circumstance, the Commission should not allow unwarranted enrollment restrictions.

Likewise, the proceedings in the RIPUC Docket leading to the development of the carport adder in the Tariff indicate that the carport adder is designed "to achieve 'other public policy objectives that provide identifiable benefits to customers.'" PUC Order 23849, at 6; *see also* R.I. Gen. Laws § 39-26.6-22. Chiefly, the carport adder is designed to incentivize developers to site distributed generation projects on "disturbed" parcels rather than greenfields. Siting distributed generation on disturbed parcels produce societal-level benefits to consumers like the preservation of carbon sinks, habitat, and historical sites, and customer-level benefits like lower interconnection costs. *See R*ecommendations, Pre-filed Direct Testimony of Jim Kennerly, Schedule 6 (SEA Memorandum), at 73–75. Here, Hexagon has a viable project sited on a disturbed parcel (an existing truck parking facility). The only obstacle to Hexagon's proposal is that National Grid indicates it does not have latitude to interpret its tariff provisions on segmentation. Declaring the Semistream Solar carport project ineligible in the REG program due to segmentation sends the wrong signal to developers and likely perpetuates the siting of distributed generation on greenfields. Granting exception under the fourth exception to segmentation, supports REG policies and goals.

REQUESTED RELIEF

For these reasons, Hexagon asks that the Commission order that Hexagon's Semistream Solar project falls within the exceptions to segmentation in section five of the Tariff and is eligible for selection for a Certificate of Eligibility.

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By their attorneys,
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CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2020, I delivered a true copy of the foregoing document to National Grid by electronic mail.

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Seth H. Handy