



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

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

December 21, 2020

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

**IN RE: --Renewable Energy Growth Program for Year 2021 National Grid &
RI Distributed Generation Board---Docket 5088**

Dear Luly,

Please find enclosed the Division's Memorandum in Support of its objection to the Motion of Green Development, LLC to Intervene in this matter for filing with the Commission in the above-entitled matter.

I appreciate your anticipated cooperation in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jon G. Hagopian".

Jon G. Hagopian
Deputy Chief Legal Counsel

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

**IN RE: 2021 RENEWABLE ENERGY GROWTH
PROGRAM- CEILING PRICES and 2021
RENEWABLE ENERGY GROWTH PROGRAM DOCKET NO. 5088
-TARIFFS and SOLICITATIONS
and ENROLLMENT RULES**

**THE DIVISION OF PUBLIC UTILITIES AND CARRIERS MEMORANDUM IN
SUPPORT OF OBJECTION TO THE MOTION TO INTERVENE OF GREEN
DEVELOPMENT, LLC**

The Rhode Island Division of Public Utilities and Carriers (Division) hereby submits to the Rhode Island Public Utilities Commission (Commission), the within memorandum in response to Green Development, LLC's (Green) Motion to Intervene (Motion). The Division objects to the Motion on the basis that the Motion does meet the requirements of the Commission Rule of Practice 1.14.

On November 13, 2021, National Grid¹ made its annual filing of the 2021 RE Growth Program Tariffs and Rules including the recommended ceiling prices and allocation plan of the Distributed Generation Board. Thereafter on December 10, 2020 Green Development, LLC filed the within Motion to Intervene.

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

A. INTERVENTION

Rule 1.14 of the Commission's Rules of Practice is applicable for the proper disposition of Green's Motion here. Rule 1.14 provides in pertinent part as follows:

1.14. INTERVENTION

- A. Initiation of Intervention. Participation in a proceeding as an intervenor may be initiated by order of the Commission upon a motion to intervene.
- B. Who May Intervene. Subject to the provisions of these rules, any person with a right to intervene or an interest of such nature that intervention is necessary or appropriate may intervene in any proceeding before the Commission. Such right or interest may be:
 - 1. A right conferred by statute.
 - 2. An interest which may be directly affected, and which is not adequately represented by existing parties and as to which movants may be bound by the Commission's action in the proceeding. The following may have such an interest: consumers served by the applicant, defendant, or respondent and holders of securities of the applicant, defendant, or respondent.
 - 3. Any other interest of such a nature that movant's participation may be in the public interest.
- C. Form and Contents of Motion. A motion to intervene shall set out clearly and concisely facts from which the nature of the movant's alleged right or interest can be determined, the grounds of the proposed intervention, and the position of the movant in the proceeding.
- D. Filing and Service of Motion. Except as otherwise provided, motions to intervene and notices of

intervention may be filed at any time following the filing of an application, petition, investigation or other document seeking Commission action, but in no event later than the date fixed for the filing of motions to intervene in any order or notice with respect to the proceedings issued pursuant to these rules, or, where no date is fixed for the filing of motions, the date of hearing, unless, for good cause shown, the Commission authorizes a late filing. Service shall be made as provided in §§ 1.8(A) through (D) of this Part. Intervention other than as a matter of right may be granted with such limitations and/or upon such conditions as the Commission shall determine.

B. DISCUSSION

Green has misinterpreted the Rules of Practice by claiming Rule 1.14 allows a person claiming an interest of such a nature that intervention is necessary or appropriate may intervene in any proceeding before the PUC. The Rules of Practice however, set-forth specific requirements for intervention and they are far different and are as follows. The movant Green has not demonstrated that it has satisfied any of the requirements of Rule 1.14 and, therefore, lacks standing to intervene in this docket.

The first way a person or entity may intervene in a Commission docket is as a matter of right conferred by statute according to Rule 1.14(b) (1). Green has not set-forth any statutory basis for intervention and, in fact, there is no statutory right conferred upon Green by Rhode Island law for such an intervention.

The second means by which one can gain status as an intervenor is found in Rule 1.14 (b)(2) which provides in pertinent part that the movant have

“[a]n interest which may be directly affected, and which is not adequately represented by existing parties and as to which movants may be bound by the Commission’s action in the proceeding. The sole grounds described by Green, a renewable energy project developer here are self-serving financial business interests that as we will see are beyond the scope of this matter.² Green claims to have an ownership stake in a renewable energy projects and was involved in the stakeholder process relating to the formation of the ceiling prices.³ The mere fact however that Green is a developer of renewable energy projects and was involved with the stakeholder process is not tantamount to “[a]n interest which may be directly affected” for purposes of gaining intervenor status.⁴ The Rhode Island Supreme Court in Town of Coventry v. Hickory Ridge Campground, Inc., 337 A.2d 233 (R.I. 1975) held “a general economic interest in a proceeding is not enough to warrant permissive intervention, especially where the claimed impact of the decision on the moving party is speculative and remote.” Green has at best an indirect interest and any claimed impact of the decision here on Green cannot be said to be anything other than speculative and remote.⁵

² See, Green’s Motion to Intervene at pp.1-2.

³ Id.

⁴ See, In Re: Island Hi-Speed Form of Regulation and Review of Rates, Order 17452, Docket No. 3495, at 24 (May 9, 2003); 2003 R.I. PUC LEXIS 44 (finding that while the movants may be interested parties, the nature of their interests did not elevate them to the level of parties in interest.). See also, In re: Island High-Speed Ferry, LLC, 746 A.2d 1240, 1246 (R.I.2000) the Supreme Court of Rhode Island found that permitting a direct competitor intervene simply because it is direct competitor places an applicant in a precarious position and is of questionable wisdom.

⁵ Id.; See also, Town of Coventry v. Hickory Ridge Campground, 337 A.2d 233 (R.I. 1975).

Similarly, Green has failed to demonstrate that no other party can represent its interests in this matter. The Division however represents the interests of the public including renewable energy developers such as Green in this matter. Green has public comment available in this docket to lend its opinions of the process.

The final means for gaining intervenor status is pursuant to Commission Rule 1.14 (b)(3) by the movant articulating “[a]ny other interest of such a nature that movant’s participation may be in the public interest.” Green has not demonstrated any facts which show that its participation is in the public interest, rather it has merely made self-serving assertions relating to its participation in the stakeholder process. The bottom line is that Green does not represent the “public interest” but rather represents its own self-serving business interests. Green posits that it will advocate for positions that are in the “public interest” specifically projects including but not limited to electric supply diversification, energy security and resilience, stable and reduced energy costs, job creation and environmental benefit. Although these issues might be in the “public interest” they are not directly relevant to this docket on ceiling price formation and tariff changes which the commission is being requested to approve. The issues raised by Green are simply outside the scope of this docket and the Commission will be distracted if the intervention here is granted. As was indicated already, the public interest is well represented by the Division and Green has public comment available. For these reasons Green has failed to demonstrate that it has met this alternative requirement.

C. CONCLUSION

Green filed for intervention here and has not specified any interest that will be directly affected by the outcome of this proceeding. This docket is a request for the setting of annual ceiling prices and revisions to a tariff. The putative public policies and other unrelated interests cited by Green as the basis for its intervention should not be a consideration in this proceeding because they are not relevant and are outside the scope of the petition. The stated interests are too remote and speculative to permit intervenor status, especially in light of the PUC's findings in previous cases on intervention and the R.I. Supreme Court's ruling in which the Court found "the wisdom and appropriateness of the intervention in this case was questionable", the Commission has been more cautious in granting intervener status to insure that a movant actually meets one of the three criteria established in Procedural Rule. ⁶ The Commission does not require the participation of Green to make a reasoned decision about the formation of the ceiling prices here, nor does it require the participation of Green to ensure that the ceiling prices are set at just and reasonable levels. The Division requests that the Commission find that Green has not made a sufficient prima facie showing to gain intervenor status and therefore intervention should be denied.

⁶ See Narragansett Electric Company, Docket No. 3739, Order No. 18794, at 5.

Division of Public Utilities and Carriers
By its attorney,



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Dated: December 21, 2020

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of December 2020 that I transmitted an electronic copy of the within Memorandum to the attached service list and to Luly Massaro, Commission Clerk by electronic mail and one set hand delivered.



Docket No. 5088- Renewable Energy Growth Program for Year 2021

National Grid & RI Distributed Generation Board

Service List updated 12/2/2020

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