

November 12, 2010

VIA HAND DELIVERY & ELECTRONIC MAIL

Luly E. Massaro, Division Clerk
Rhode Island Division of Public Utilities and Carriers
89 Jefferson Boulevard
Warwick, RI 02889

**RE: Complaint of Benjamin Riggs
Docket No. D-10-126**

Dear Ms. Massaro:

I have enclosed for filing five (5) copies of National Grid's Responses to the Division's First Set of Data Requests in the above-referenced matter.

Thank you for your attention to this transmittal. If you have any questions, please feel free to contact me at (401) 784-7667.

Very truly yours,



Thomas R. Teehan

Enclosure

cc: Jon Hagopian, Esq.
Steve Scialabba, Division

Certificate of Service

I hereby certify that a copy of the cover letter and/or any materials accompanying this certificate were electronically transmitted and sent via U.S. Mail to the individuals listed below. Copies of this filing were hand delivered to the RI Division of Public Utilities & Carriers.



November 12, 2010

Joanne M. Scanlon
National Grid

Date

**Complaint Relating to the Town of Porstmouth Generator Facility – NetMetering
Docket No. D-10-126
Updated 10/28/10**

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Division 1-1

Request:

State all facts surrounding the application in May, 2008 to interconnect the 1.5 MW wind turbine located in the Town of Portsmouth, which is referenced in the September 3, 2010 correspondence of Thomas R. Teehan, Senior Counsel for National Grid to the Division in response to the complaint of Benjamin C. Riggs, Jr.

Response:

National Grid received an interconnection application from the Town of Portsmouth, RI for installation of a 1,500 KW wind turbine at 120 Education Lane, Portsmouth, RI, account 03878-03009. The application was received on June 6, 2008, deemed complete on June 10, 2008 and assigned for review under tracking number RI-101. The site diagram submitted with the application indicated that a new primary metering pole was desired at the property line for the school grounds. This primary metering pole would define the new point of service for the loads and generator on the property. A site meeting was held on July 11, 2008 to discuss the application and potential location of new pole(s) to affect the new primary metering as requested. On July 21, 2008, National Grid completed its initial review of the proposed interconnection. An impact study was required and National Grid transmitted an Impact Study Agreement and invoice for the impact study fee of \$5,000. On September 4, 2008, a site plan was issued to National Grid indicating that a new primary metering pole would be installed just inside the property line, before the riser pole for main electrical service to the high school. The new primary metering was to encompass three existing electric accounts and the new wind turbine service. The existing electric accounts for the high school, gym and tennis courts would all be behind the new primary meter along with the new wind turbine. Moving the metering point from the existing three services out to the property line would require the transfer to the Town of Portsmouth certain National Grid distribution assets on the customer side of the new primary metering point. This included several poles, primary and secondary overhead wires, aerial and pad-mounted transformers, and primary underground cables. Steps were taken to begin the process of estimating the residual value of those assets for sale to the Town of Portsmouth.

On October 9, 2008, National Grid received a new electrical one-line diagram from the engineer working on the wind turbine project for the Town of Portsmouth. The new power one-line diagram changed the requested point of service. The diagram eliminated the need for a new

Division 1-1 (cont.)

primary metering point and indicated that the service to the new wind turbine would be via a side-tap from existing National Grid overhead distribution facilities on school property. The new side tap to the wind turbine was to have its own meter and be a separate electric account. The accompanying email from the Town's engineer stated that the Town was considering the new arrangement because the new RI regulations passed into law in July 2008 "would allow the Town to credit the wind turbine output to all of their metered accounts." The new proposed arrangement would eliminate the requirement to transfer National Grid distribution assets to the Town of Portsmouth, and all existing electrical accounts at the site would remain in place. Due to the complication associated with transferring utility company assets, the Company agreed with the Town's revised plan which would result in the creation of a new electric account for the wind turbine only. On October 14, 2008, the Town of Portsmouth confirmed that this new method of service was desired, and National Grid designed the appropriate service and estimated the cost of electrical construction.

On November 13, 2008, the Detailed Interconnection Study (Impact Study) was issued including an estimate for the cost of electric construction. National Grid sent a service agreement and invoice for the work, which was paid allowing construction to begin. The Interconnection Service Agreement for the new wind turbine was sent to the Town of Portsmouth for signature on December 12, 2008. A modified Interconnection Service Agreement, addressing concerns with the relay protection portion of the agreement, was transmitted to the Town of Portsmouth for signature on December 31, 2008. The Interconnection Service Agreement was signed by both parties in January 2009, and an original was mailed to the Town of Portsmouth on January 27, 2009. On February 5, 2009, National Grid transmitted RI Net Metering Schedule B to the Town of Portsmouth for completion. This form allowed the customer to designate disposition of credits earned through net-metering. The new service to the wind turbine was connected on February 19, 2009. Relay protection testing was conducted, and the Town of Portsmouth Wind Turbine came on-line and began commercial operation on March 18, 2009.

Division 1-2

Request:

Please provide copies of all Power Purchase Agreements between National Grid and the Town of Portsmouth with respect to the Portsmouth Wind Generating Facility, which is the subject of the complaint of Benjamin C. Riggs, Jr.

Response:

National Grid does not execute Power Purchase Agreements for accounts which are net metered. No Power Purchase Agreements were executed between National Grid and the Town of Portsmouth. As stated in the Company's response to Division 1-1, a Schedule B was completed to formalize the net metering arrangements. Please find attached as Attachment Division 1-2 a copy of Schedule B between National Grid and the Town of Portsmouth, RI.

Schedule B

THE NARRAGANSETT ELECTRIC COMPANY
NET-METERING APPLICATION OF CREDITS

The Agreement is between Town of Portsmouth, RI (600 KW Wind QF), a Net-Metered Facility ("NMF") and The Narragansett Electric Company (the "Company") for transfer of credits earned through net-metering as per section III.B(1) from the NMF located at Portsmouth High School, 120 Education Lane, Portsmouth, Rhode Island.

Agreement to apply credits earned by the NMF

Effective as of February 13, 2009, the Company agrees to transfer credits to the following account(s) designated by the NMF under the terms and conditions of the Company's Qualifying Facilities Power Purchase Rate Tariff as currently in effect or amended by the Company in the Company's sole discretion. The NMF agrees to comply with the provisions of the Qualifying Facilities Power Purchase Rate Tariff, the applicable retail delivery tariffs and terms and conditions for service that are on file with the Rhode Island Public Utilities Commission as currently in effect or as modified, amended, or revised by the Company, and to pay any metering and interconnection costs required under such tariff and policies.

Designated Account(s)

The following information must be provided for each individual designated account (five accounts maximum)

Name: PORTSMOUTH HIGH SCHOOL
Address: 120 EDUCATION LANE
Account number: 03878-03009
Percentage of monthly earned credit: ~~100%~~ 34%

Name: PORTSMOUTH MIDDLE SCHOOL
Address: 125 JEPSON LANE
Account number: 28272-65003
Percentage of monthly earned credit: ~~100%~~ 33%

Name: PORTSMOUTH TOWN HALL ST LIGHT
Address: 2200 EAST MAIN RD
Account number: 03361-89005
Percentage of monthly earned credit: ~~100%~~ 20%

Name: HATHAWAY SCHOOL
Address: 53 TOLMAN
Account number: 53347-55006
Percentage of monthly earned credit: ~~100%~~ 27%

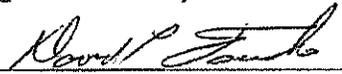
Name: PORTSMOUTH TOWN HALL
Address: 2200 EAST MAIN RD
Account number: 16009-83007
Percentage of monthly earned credit: ~~100%~~ 11%

The Company will credit the NMF and its designated account(s) the rates in effect at the time of delivery as provided for in the Qualifying Facilities Power Purchase Rate Tariff.

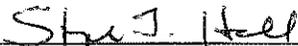
Notice

The Company or NMF may terminate this agreement on thirty (30) days written notice which includes a statement of reasons for such termination. In addition the NMF must re-file this agreement annually.

Agreed and Accepted


Customer

2/11/09
Date


The Narragansett Electric Company

2/25/09
Date

Division 1-3

Request:

State all facts surrounding any and all interconnection agreements between National Grid and the Town of Portsmouth to connect the Portsmouth Wind Generating Facility directly to National Grid's distribution lines, describing the reasons for direct connection, and the interconnection point.

Response:

Please refer to National Grid's response to Division 1-1 above. The original request for interconnection placed the point of service at a new primary metering pole at the school property line. This point of service would have encompassed the load from three existing electric accounts and the new wind turbine. One of the existing electrical accounts was a Town account, and the other two were School Department accounts. Due to legislation passed in July 2008, the Town requested a change to the point of service. This change eliminated the need for any transfer of distribution assets from National Grid to the Town of Portsmouth and also resulted in a simpler arrangement of primary electrical gear on the customer's property. It also allowed the Town and School Department accounts to remain separate. It did not change the engineering characteristics of the interconnection of the wind turbine to the primary electrical system, nor did it change the protection requirements. From an engineering standpoint, the change in point of service only moved the point of metering for the loads and generator on the property.

Division 1-4

Request:

Provide the date the Portsmouth Generating Facility came on line.

Response:

The Town of Portsmouth wind turbine generator came on line on March 18, 2009.

Division 1-5

Request:

In National Grid’s correspondence of September 3, 2010 from Attorney Teehan it is stated that [n]et metering is understood in the industry as a means of allowing customers who have installed “behind the meter” generation to obtain credit for excess generation during those times when the production from the unit exceeds the on-site load. Where a generating facility is designed as a stand alone facility, with no real associated distribution load, it may be more accurately viewed as a wholesale generator, which could trigger FERC jurisdiction under the Federal Power Act. In addition, if the unit is a “qualifying facility” under federal law, as smaller renewable electricity projects would typically be, recent decisions on this issue would indicate that the sale of power from such a facility should be governed by the federal requirement that the rate established for its output does not exceed the avoided cost of the purchasing utility. 16 U.S.C §824a-3; See In re California Public Utilities Commission, FERC Docket No. EL 10-64-000.

- (a.) Please indicate whether National Grid agrees with and accepts the industry understanding of net metering; also state whether National Grid’s interpretation of R.I. Gen. Laws 39-26-2 et. seq. is consistent with the industry understanding; if not, provide all facts explaining the distinction.
- (b.) Please provide all facts which lead National Grid to conclude that the Portsmouth Generating Facility fails to comport with either National Grid’s or the industry’s understanding of what constitutes a net metering generation configuration.
- (c.) Please provide all facts indicating whether the Portsmouth Wind Generating Facility is a net metering configuration pursuant to RI Gen. Laws 39-26-2 et seq.
- (d.) Please state whether the Portsmouth Wind Generator is a “Qualifying Facility” pursuant to National Grid’s Qualifying Facility Tariff. If so, state all facts which support your response, including whether Portsmouth opts to receive a renewable generation credit in the form of a check or a bill credit.

Division 1-5

Response:

- (a) Yes. National Grid accepts the industry understanding of net metering. However, R.I. Gen. Laws does not explicitly define a “net metering customer.” Rather, it only defines the net metering “process.” A “net metering customer” is one who is a “net consumer” of electricity from the on-site generator. FERC has defined net metering in a manner consistent with industry understanding as follows:

Net metering allows a retail electric customer to produce and sell power onto the Transmission System without being subject to the Commission's jurisdiction. A participant in a net metering program must be a net consumer of electricity -- but for portions of the day or portions of the billing cycle, it may produce more electricity than it can use itself. This electricity is sent back onto the Transmission System to be consumed by other end-users. Since the program participant is still a net consumer of electricity, it receives an electric bill at the end of the billing cycle that is reduced by the amount of energy it sold back to the utility. Essentially, the electric meter “runs backwards” during the portion of the billing cycle when the load produces more power than [sic] it needs, and runs normally when the load takes electricity off the system.

Order No. 2003-A, Standardization of Generator Interconnection Agreements and Procedures, 106 FERC ¶ 61,220 at 744 (March 5, 2004).

- (b) The Portsmouth Generating Facility is not a “net consumer of electricity.” The generating unit is self-standing. Thus, there are no billing periods where the customer consumes all of the electricity produced on site. As such, the facility is a wholesale generator making sales for resale to National Grid, which is jurisdictional to FERC.

In a net metering case, FERC stated:

There may be, over the course of the billing period, either a net sale from the individual to the utility, or a net purchase by the individual from the utility. When there is a net sale to a utility, and the individual's generation is not a QF, the individual would need to comply with the requirements of

Division 1-5 (cont.)

the Federal Power Act. . . . When there is a net sale to a utility, and the individual’s generation is a QF, that net sale must be at an avoided cost rate consistent with PURPA and our regulations implementing PURPA.

MidAmerican Energy Company, 94 FERC ¶ 61340 at 62263 (March 28, 2001).

- (c) The law does not define a “net metering configuration” or a “net metering customer.” Rather, Section 26-2 only describes the metering process. It states: “‘Net metering’ means the process of measuring the difference between electricity delivered by an electrical distribution company and electricity generated by a solar-net-metering facility or wind-net-metering facility, and fed back to the distribution company.” Since the statute would be unconstitutional to read it in such a manner as to allow self-standing generating facilities to sell power at a rate that is greater than the electric distribution company’s avoided cost, it is reasonable to interpret the statute more narrowly, so as to be consistent with federal law. Reading the statute to avoid constitutional issues, Rhode Island law would not permit a self-standing generator with no material “on-site load” to be net metered and receive credits at a rate that is higher than the utility’s avoided cost.
- (d) Because the Portsmouth Wind Generator produces power from wind generation, it meets the eligibility criteria for a Qualifying Facility under FERC regulations. However, the Company does not know whether the owner has filed at FERC to certify as a Qualifying Facility. If not, the Company believes that the facility has an obligation to make a filing under federal law in order to make lawful sales of electricity. The receipt of renewable generation credits under the circumstances of the Portsmouth configuration constitutes a sale of electricity that is jurisdictional to FERC.

Division 1-6

Request:

If National Grid contends or otherwise believes that net metering is being used in an unintended manner, provide all facts and examples which support such a contention or belief, including whether the Portsmouth Wind Generating Facility complies with net metering provisions of RI Gen. Laws 39-26-2 et seq.

Response:

Please see the Company's responses to Division 1-5.

Division 1-7

Request:

If National Grid contends or otherwise believes that net metering provides a means to pay for output at above market costs, state all facts which support such a contention or belief.

Response:

When a self-standing generating unit such as the Portsmouth Wind Generating Facility produces electricity and receives a payment in the form of a renewable generation credit, it receives a price for the energy that is greater than the market price of the energy. The difference between the total amount of the renewable generation credit and the market price of the energy is the above market cost.

Division 1-8

Request:

If National Grid contends or otherwise believes that net metering customers avoid paying for their use of the distribution system, state all facts which support this contention or belief and whether R.I. Gen. Laws 39-26-2 et seq. facilitates this issue.

Response:

When a net metering customer avoids distribution charges by generating some or all of their own load requirements, that customer is avoiding his or her full share of the distribution system costs. Every net metering customer uses the distribution system either for back up or for direct service. When that customer does not contribute to the cost of the distribution system or the contribution is substantially reduced because of net metering credits, it means that other distribution customers are paying for all or a portion of that customer's use of the distribution system.

Division 1-9

Request:

If National Grid contends or otherwise believes that net metering customers avoid paying for their use of distribution system when the generating facility is not producing electricity, provide all facts which support such a contention or belief.

Response:

Even a net metering customer who is a “net consumer” of electricity in a billing period uses the distribution system when the generating unit is not producing electricity. However, even though a customer may not be generating electricity for part of a billing period, there may be other times during the billing period when the generator is operating, and the unit may be producing enough electricity to generate credits in an amount that is large enough to off-set distribution charges that might have accrued when the generating facility was not operating. Thus, in such circumstances, the net metering customer avoids paying its full share for the use of the distribution system. Further, all customers rely on the distribution system being available. Distribution system costs are fixed, therefore, the Company’s cost to serve a full requirements customer is no different than the cost to serve a firm back-up service customer. To the extent no back up charges apply, as is the case with renewable generation, the net metering customer is not contributing his or her share of system costs.

Division 1-10

Request:

State how National Grid proposes that net metering customers should contribute for their use of the distribution system and whether it believes that Portsmouth Wind Generator Facility pays its share for use of the distribution system.

Response:

The Portsmouth Wind Generator Facility itself is not a “distribution customer.” Rather, the facility is a wholesale generator, as currently configured, using the distribution system to sell power to National Grid. The problem is that the credits being paid to the Town from the production at the facility are effectively reducing the Town’s contribution to the cost of the distribution system through the cross subsidies inherent in the net metering mechanism, because all other distribution customers are paying a rate for the power that is above market.

One alternative in this case would be to change the rate being paid to the Town for the production of electricity, so that the rate is at or below the standard offer rate. In turn, the Company could account for the output as a portion of standard offer supply that it otherwise would have purchased from its standard offer supplier. The energy from the Town’s facility in such a scenario would effectively be a part of standard offer supply. This would allow Portsmouth to continue to receive revenue for the electric production, but eliminate the cross subsidies from other distribution customers that was occurring from the above market payments. While this would reduce the amount of revenue the Town is currently receiving from National Grid, the combination of revenue derived from the standard offer rate, plus the revenue the Town still receives from selling renewable energy certificates in the market, would still provide a significant revenue stream to the Town. If the credit received from National Grid is the same or lower than the standard offer rate and the energy actually displaces standard offer power that National Grid would need to purchase from its wholesale standard offer suppliers, the conflict with federal law may be mitigated or eliminated.

Division 1-11

Request:

The local media has reported on a planned wind-farm which has been described as a 25 megawatt project of 8-10 wind turbines to be located in Tiverton, in or near the Tiverton Industrial Park (the “East Bay Energy Consortium Project” hereafter the “EBEC project”). The wind farm would be a joint effort of nine separate cities and towns. The project has received grants from the State Economic Development Corporation, among others. Attached to this data request is a .pdf file with a Providence Journal article about the planned wind farm which was printed on October 17, 2010.

- (a.) Has National Grid been aware of the EBEC project?
- (b.) Based on National Grid’s understanding of the project, would the EBEC project qualify for net metering treatment under Rhode Island law?
- (c.) Have there been any discussions or correspondence between National Grid and the EBEC or the Economic Development Corporation about the EBEC project? If so, please describe the nature of those communications.
- (d.) If National Grid knows, aside from the fact that the EBEC project is a partnership among several communities, how does it differ from the Town of Portsmouth project?

Response:

- (a) Yes.
- (b) No.
- (c) Although no formal application was submitted to the Company, one of the project’s consultants made an informal inquiry regarding the possible net metering arrangements for the project. After considering the limited conceptual project outline provided by the consultant, the Company ultimately informed the consultant that the Company did not believe the project would be eligible for net metering.

Division 1-11 (cont.)

(d) There is no difference in the effect that federal law has on the project. As a stand-alone generating facility, the EBEC project would be FERC-jurisdictional. As such, National Grid should not be paying more than its avoided cost for any energy produced from the facility. Any law that is construed to set the rate to be paid (directly or indirectly) in an amount that exceeds National Grid's avoided cost, would be unconstitutional.