

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

PETITION FOR ACCELERATION DUE TO : **Dkt. 23-37-EL**
DG PROJECT – TIVERTON PROJECT :

**DIVISION’S OBJECTION TO MOTION FOR SUMMARY DISPOSITION
BY GREEN DEVELOPMENT, INC.**

The Division of Public Utilities and Carriers (“Division”) hereby objects to Green Development, Inc.’s Motion for Summary Disposition. As grounds for its objection, the Division restates and incorporates herein the Direct Testimony of Gregory L. Booth, P.E.

R.I.P.U.C. 2258 defines a “System Modification” as “Modifications or additions to Company facilities that are integrated with the Company EDS¹ for the benefit of the Interconnecting Customer.” (Emphasis added). RIPUC further provides that where a “System Modification of the electric distribution system benefits other customers and has been accelerated . . . the Interconnecting customer will be entitled to repayment of the depreciated value of the modification as of the time the modification would have been necessary...” (emphasis added).²

R.I.P.U.C. 2258 defines a “System Improvement” as “[e]conomically justified upgrades determined by the Company in the Facility study phase for capital investments associated with improving the capacity or reliability of the EDS that may be used along with System Modifications to serve an Interconnection customer” (emphasis added).³

¹ Defined in R.I.P.U.C. 2258 n.1 as “the distribution assets owned and operated by the Company, consistent with the Institute of Electrical and Electronics Engineers (IEEE) Standard for Interconnecting Distributed Resources with Electric Power System 1547-2003.”

² R.I.P.U.C. 2258 § 5.4(b) (September 1, 2022).

³ R.I.P.U.C. 2258 § 1.2 (September 1, 2022).

The Interconnection Agreements (executed by the Company and Green), the Area Studies and the Company in its Direct Testimony all designate the Tiverton and Weaver Hill Projects (the “Projects”)⁴ as “System Modifications.”⁵ Viewing the facts on the Record in the light most favorable to the adverse party, as the Commission must on a motion for summary disposition,⁶ the Petitions⁷ show that the Tiverton and Weaver Hill Projects are System Modifications, or at least create an issue of material fact that they are such. The Direct and Surrebuttal Testimonies of Mr. Booth explain in detail why the Projects “do not benefit other customers”⁸ and are not economically justified, and thus, explain why Green is not entitled to repayment of the depreciated value of the Projects at the time it would have been necessary under R.I.P.U.C. 2258 § 5.4.⁹

Viewed from the perspective as “System Improvements” as Green contends, the outcome is no different. Green is still not entitled to either accelerated recovery of the Projects or any

⁴ Generally, as defined by the Company, *Petition (Tiverton)* at Bates Page 13 and *Petition (Weaver Hill)* at Bates Page 19.

⁵ See e.g., *Petition (Tiverton)* at Bates Pages 29, 34, 71, 76, & 131; *Petition (Weaver Hill)* at Bates Pages 34, 142, 186, & 206.

⁶ See e.g., *Dkt. No. 1692, Order No. 10877* at 2 (on a motion to dismiss Commission must consider pleadings in the light most favorable to the opposing party).

⁷ As used herein, the term “Petitions” refers to RIE’s Petitions for Acceleration and Pre-filed Direct Testimony of Erica Russell Salk & Stephanie A. Briggs (inclusive of all exhibits) filed with the Commission for the Weaver Hill and Tiverton projects on October 17, 2023.

⁸ *Booth Direct (Tiverton)* at 11-15; *Booth Direct (Weaver Hill)* at 13-17.

⁹ Relative to System Modifications, under *R.I.P.U.C. 2258 § 5.4(c) & (b)*, Green is not entitled to repayment for the Projects for failure to satisfy the Section 5.4’s 5-year bar as well. As to the Tiverton Project, in Div 2-11 the Company concedes “the Company acknowledges that this investment will not be installed within a five-year period as the language in the tariff directs.” As for the Weaver Hill Project: the Nooseneck Project, the Robin Hollow Solar Project and the Studley Solar Project, each impact study did not commence within 5 years of FY 2027, which is the Company’s earliest planned installation for the system improvement. Therefore, the requirement to be considered an accelerated modification subject to Section 5.4 would not be satisfied.

recovery of the Projects at any time in the foreseeable future.¹⁰ Mr. Booth's Direct Testimony cogently explains why the Projects are neither "economically justified"¹¹ nor needed now to improve the capacity or reliability of the Company's EDS.¹²

Through its motions for summary disposition, Green in effect asks the Commission to summarily place its imprimatur on the Petitions and allow the recovery of about **\$26 Million** Dollars from ratepayers for the costs incurred with interconnecting the Projects. While the Division believes there is an abundance of evidence that requires the denial and dismissal of the Company's Petitions in ratepayers' favor, the Direct Testimony of Mr. Booth clearly raises issues of material fact which, when viewed in the light most favorable to ratepayers, counsels proceeding to hearing for the Commission to consider the Petitions on a full evidentiary Record.¹³ Additionally, summary disposition as advocated by Green, would eliminate the opportunity for the Division and Commission to fully vet exact DG reimbursement costs, and assess how those incremental dollars would be applied against the Company's ISR Plan consolidated budget cap. Accordingly, Green's Motion for Summary Disposition in this docket should be denied.

¹⁰ Green concedes that the Tariff "does not precisely address" the process for the recovery of claimed System Improvement costs from ratepayers. *Green Motions for Summary Disposition in 23-37-EL* at 11 & *23-38-EL* at 10. Green has invented a "petition" to accelerate "System Improvements" in an attempt to circumvent the guardrails provided by the 5-year bar that applies to a "specific System Modification . . . that benefits other customers" and requirement of a 4600 Analysis. See *R.I.P.U.C. 2258 § 5.4(b) & (c); 4600A Guidance Document infra*. There is no doubt that many other DG developers, with many millions of dollars in projects, are waiting "in the wings" to learn if they, too, may receive interconnection cost recovery for their projects from ratepayers as "System Improvements." If the Commission believes the utility's existing capital budgets are onerous for ratepayers, then adopting Green's invented cost recovery mechanism, in all probability, will exacerbate that problem.

¹¹ To the Division's knowledge, Green has not submitted as 4600A Benefit/Cost Analysis showing that Projects are "economically justified." Such an analysis is required under Public Utilities Commission's "*Guidance on Goals, Principles and Values for Matters Involving The Narragansett Electric Company d/b/a National Grid*" ("4600A – Guidance Document"), which applies "any proponent of a rate, rate design, or program proposal with associated cost recovery..." *4600A Guidance Document* at 2. Again, issues of material fact exist so as to require a hearing.

¹² *Booth Direct* (Weaver Hill) at 13-17; *Booth Direct* (Tiverton) at 11-15.

¹³ *Accord Dkt. 1659, No. 10820* (questions of fact should not be answered before the parties have produced a record which can serve as the basis for a Commission decision).

Respectfully submitted,

DIVISION OF PUBLIC UTILITIES AND
CARRIERS

By its attorneys,

/s/ Leo J. Wold

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CERTIFICATE OF SERVICE

I certify that a copy of the within objection was forwarded e-mail the Service List in the above-entitled docket on May 20, 2024.

/s/ Leo J. Wold