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Rhode Island Energy™
a PPL company

May 20, 2024

VIA HAND DELIVERY & ELECTRONIC MAIL

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

RE: Docket No. 23-37-EL – The Narragansett Electric Company d/b/a Rhode Island Energy's Petition for Acceleration of a System Modification Due to Distributed Generation Project Tiverton Projects
Rhode Island Energy's Response to Green's Motion for Summary Disposition

Dear Ms. Massaro:

On behalf of The Narragansett Electric Company d/b/a Rhode Island Energy (the "Company"), enclosed please find Rhode Island Energy's response to Green's Motion for Summary Disposition in the above-referenced docket.

Thank you for your attention to this filing. If you have any questions, please contact me at 401-784-4263.

Sincerely,

Andrew S. Marcaccio

Enclosures

cc: Docket No. 23-38-EL Service List

STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION

Petition for Acceleration Due to DG Project – Tiverton Projects	)	Docket No. 23-37-EL

RESPONSE OF THE NARRAGANSETT ELECTRIC COMPANY d/b/a RHODE ISLAND ENERGY TO THE MOTION FOR SUMMARY DISPOSITION BY GREEN DEVELOPMENT

The Narragansett Electric Company d/b/a Rhode Island Energy ("Narragansett" or the "Company") hereby responds to the Motion for Summary Disposition by Green Development, LLC ("Green") (the "Motion") seeking summary disposition of the Petition for Acceleration Due to a Distributed Generation ("DG") Project for the Tiverton Projects submitted by Narragansett in this docket (the "Petition"). Green filed its Motion pursuant to Section 1.16 of the Rhode Island Public Utilities Commission ("Commission" or "PUC") Rules of Practice and Procedure. Green claims its Motion is warranted for four reasons, in relevant part:

1. Rhode Island law and the interconnection tariff do not allow the cost of system improvements that the Company has planned to benefit other customers to be assessed to interconnecting renewable energy customers…

2. State law requires that the Company reimburse Green for all of the costs incurred for System Improvements that the Company had planned and put in its approved Electric Infrastructure Safety and Reliability plan to benefit its other customers…

3. Precedent supports Green's motion; and

4. State and public policy supports the granting of summary disposition.

Motion at 1.

As explained herein, the Company supports favorable consideration by the Commission of Green's legal arguments and the conclusion that Green is entitled to reimbursement whether the investments are deemed system improvements or accelerated system investments that benefit other customers. Narragansett also disagrees with one claim in the Motion and addresses that legal argument below.

I. NATURE OF THE PROCEEDING

In 2017, the General Assembly passed legislation, codified as R.I. Gen. Laws § 39-26.3-4.1 (the "Interconnection Statute"), governing instances where a specific system modification benefiting other customers has been accelerated due to an interconnection request. The following provisions of the Interconnection Statute are applicable:

> (a) The electric distribution company may only charge an interconnecting, renewable energy customer for any system modifications1 to its electric power system specifically necessary for and directly related to the interconnection.
>
> (b) If the public utilities commission determines that a specific system modification benefiting other customers has been accelerated due to an interconnection request, it may order the interconnecting customer to fund the modification subject to repayment of the depreciated value of the modification as of the time the modification would have been necessary as determined by the public utilities commission. Any system modifications benefiting other customers shall be included in rates as determined by the public utilities commission,
>
> (c) If an interconnecting, renewable energy customer is required to pay for system modifications and a subsequent renewable energy or commercial customer relies on those modifications to connect to the distribution system within ten (10) years of the earlier interconnecting, renewable energy customer's payment, the subsequent customer will make a prorated contribution toward the cost of the system modifications that will be credited to the earlier interconnecting, renewable energy customer as determined by the public utilities commission.

On July 21, 2021, the Company and Green entered into an Interconnection Services Agreement ("ISA") for purposes of interconnecting the Green's 11,791 kW photovoltaic systems located at 390 Brayton Road, Tiverton, RI 02878 ("Tiverton Projects") to the Company's electric power system ("EPS"). As noted in the Company's Petition seeking findings from the

Commission, the Company noted that its 5-year and beyond capital investment plan includes system investments in the Tiverton area through calendar year ("CY") 2029 (Petition at 1). The interconnection of the Tiverton Projects has accelerated the need for system investments in the Tiverton area (id.). The specific system investments that require acceleration are the construction of a dedicated circuit (33F6) out of the Tiverton Substation and the installation of approximately 21,000 feet of a manhole and duct system with 3 conductor 1000 kcmil SCU EPR cable (id.; Response to Division 2-13). Absent the interconnection of the Tiverton Projects, the Company anticipated making these system investments by 2029 (id.).

The Company's Interconnection Tariff includes provisions governing the allocation of costs between distribution companies and distributed generation developers ("Interconnecting Customers") associated with system investments that benefit both Interconnecting Customers and distribution customers. The Company's Interconnection Tariff, RIPUC 2258 entitled The Narragansett Electric Company Standards for Connecting Distributed Generation (the "Interconnection Tariff") defines a "System Modification" as "Modifications or additions to Company facilities that are integrated with the Company's [Electric Distribution System] for the benefit of the Interconnecting Customer." The Interconnection Tariff separately defines "System Improvements" as "Economically justified upgrades determined by the Company in the Facility study phase for capital investments associated with improving the capacity or reliability of the [Electric Distribution System] that may be used along with System Modifications to serve an Interconnection Customer."

The specific system investments at issue are the construction of a dedicated circuit (33F6) out of the Tiverton Substation and the installation of approximately 21,000 feet of a manhole and duct system with 3 conductor 1000 kcmil SCU EPR cable. In this instance, these system

investments benefit both Green as an Interconnecting Customer, and will benefit distribution customers. As such, these system investments could be considered both a System Modification and a System Improvement, as defined in the Interconnection Tariff. However, the Interconnection Tariff does not clearly define the process by which the Company should determine whether a System Improvement should be accelerated for purposes of applying the cost sharing provisions of the Interconnection Statute.

Specifically, Section 5.4 of the Interconnection Tariff states:

(a) The Company may combine the installation of System Modifications with System Improvements to the Company's EDS to serve the Interconnecting Customer or other customers, but shall not include the costs of such System Improvements in the amounts billed to the Interconnecting Customer for the System Modifications required pursuant to this Interconnection Tariff. Interconnecting Customers shall be directly responsible to any Affected System operator for the costs of any System Modifications necessary to the Affected Systems.

(b) Effective for Renewable Interconnecting Customer Applications filed on or after July 1, 2017, in the event that the Commission determines that a specific System Modification of the electric distribution system benefits other customers and has been accelerated due to an interconnection request and orders the Renewable Interconnecting Customer to fund the modification, the Renewable Interconnecting Customer will be entitled to repayment of the depreciated value of the modification as of the time the modification would have been necessary as determined by the Commission. Subsequent Renewable Interconnecting Customers will be responsible for prorated payments within ten (10) years of the earlier Renewable Interconnecting Customer's payment toward System Modifications.

(c) The Company will consider a system modification to be an accelerated modification if such modification is otherwise identified in the Company's work plan as a necessary capital investment to be installed within a five-year period as of the date the Company begins the impact study of the proposed distributed generation (DG) project (defined as an Accelerated Modification). The Company will identify the Accelerated Modification and the cost thereof in the impact study. The Renewable Interconnecting Customer will be responsible for the identified Accelerated Modification costs less the depreciated value (Modified Costs), which Modified Costs will be estimated in the interconnection service agreement (ISA). Upon reconciliation, final labor, material and depreciation values will be provided based on the actual date of asset installation in the same price categories as originally proposed in the ISA to the customer so that a comparison can be made. The Company will file

with the Commission all executed ISAs for Renewable Interconnecting Customer DG projects with an identified Accelerated Modification by July 1 of each year.

As noted above, Sections 5.4(b) and (c) of the Interconnection Tariff describe a process for accelerated "System Modifications" but does not use the term "System Improvements." In this instance, the system investments that have been accelerated by the Interconnection Customer's Tiverton Projects benefit the Interconnection Customer and distribution customers.

II. LEGAL STANDARD

PUC Rule 1.16(E) provides that the Division or any intervenor "may file a motion for summary disposition of all or part of the rate tariff filing. If the PUC determines that there is no genuine issue of fact material to the decision, it may summarily dispose of all or part of the rate tariff filing." To obtain summary disposition, the moving party has the burden to show that there is no genuine issue of material facts in the record that could support approval of the non-moving party's proposed filing or portion thereof. In Re: Block Island Power Company General Rate Filing, Docket No. 3655. To decide whether Summary Disposition on the Petition for Accelerated System Improvement is appropriate, the PUC must determine whether there are no material issues of fact regarding whether the Petition is consistent with the statutory requirements of R.I. Gen. Laws § 39-26.3-4.1. Id.

In this case, the Company acknowledges that the Division disputes several of the facts offered by the Company. However, when determining whether "a specific system modification benefiting other customers has been accelerated due to an interconnection request[1]" the Commission may apply a standard that, once work benefitting a DG developer is identified in an approved ISR Plan, including work identified within the ISR's 5-year plan, it is deemed beneficial

[1] See R.I. Gen. Laws § 39-26.3-4.1(b).

to other customers for purposes of reimbursing the DG developer that first pays for such modification/improvement to interconnect their renewable energy project under the Interconnection Statute. In this case, the Tiverton work was identified within an approved ISR Plan (Narragansett's Joint Rebuttal Testimony at pg. 21, lines 2-9).

To the extent that the Commission determines that material facts are in dispute and the Motion does not meet the Standard of Review for Summary Disposition and chooses not to consider the legal claims raised therein outside of the evidentiary hearing process, the Company supports allowing the parties to brief these issues after the conclusion of hearings.

III. ARGUMENT

A. The Company Supports the Motion's Claim that Green Should be Reimbursed for the Costs of the Construction of the Dedicated Circuit 33F6 Out of the Tiverton Substation and the Installation of Approximately 21,000 Feet of a Manhole and Duct System with 3 Conductor 1000 kcmil SCU EPR Cable.

The Company supports the Motion's claim that Green should be reimbursed for the costs it incurred for the construction of the dedicated circuit 33F6 out of the Tiverton Substation and the installation of approximately 21,000 feet of a manhole and duct system with 3 conductor 1000 kcmil SCU EPR cable. Indeed, as noted in the Company's Petition, the Company is seeking the following determinations from the PUC related to the acceleration of the system investments (identified in the Petition as "System Improvements") stemming from the Tiverton Projects:

(a) That the System Improvements (as defined in the Recitals to the Petition) were accelerated due to the interconnection of the Tiverton Projects;

(b) That the Company may apply each of the provisions of Section 5.4 of the Interconnection Tariff to derive the methodology to collect costs from the Interconnecting Customer for System Improvements associated with the interconnection of the Tiverton Projects and then reimburse the depreciated value of such System Improvements to the Interconnecting Customer;

(c) That the System Improvements required to interconnect the Tiverton Projects will benefit both the Interconnecting Customer and the Company's distribution customers;

(d) That the System Improvements have been accelerated from the time they would otherwise be required to serve the Company's distribution customers;

(e) That such acceleration is due to the Interconnection Customer's request to interconnect the Tiverton Projects;

(f) That the Interconnection Customer shall fund the System Improvements subject to repayment of the depreciated value of the System Improvements, such depreciated value calculated as of the time the System Improvements would have been necessary; and

(g) That the costs of the depreciated value of the System Improvements shall be recovered from distribution customers through the Company's Infrastructure, Safety and Reliability ("ISR") Provision, RIPUC No. 2199 ("ISR Tariff").

Petition at 2-3.

The Company also agrees with Green's opposition to the Division's claim that the system investments in question are not subject to reimbursement because they were not going to happen, or would not have happened within five years (as of the date the Company begins the impact study of the proposed distributed generation (DG) project) (Motion at 13, citing Division Direct at 7). The Division improperly concludes that the "5 year window" language in the Interconnection Tariff should be a determinative factor regarding whether the costs of a system investment initially paid by an Interconnecting Customer that benefits both the Interconnecting Customer and distribution customers generally should be subject to reimbursement by ratepayers.

The language in Section 5.4 of the Interconnection Tariff on this point is directive on one scenario but not restrictive as to other scenarios. Specifically, it states:

> The Company will consider a system modification to be an accelerated modification if such modification is otherwise identified in the Company's work plan as a necessary capital investment to be installed within a five-year period as of the date the Company begins the impact study of the proposed distributed generation (DG) project (defined as an Accelerated Modification).

Interconnection Tariff, Section 5.4(d).

As an initial point, the Company has demonstrated that the investments in question were identified in the Company's Tiverton Area Study and ISR to be installed, at least in part, within a five year period of the date (June 6, 2019) when the Company began the impact study for the Tiverton Project (Pre-Filed Joint Direct Testimony of Salk and Briggs at 14 and 16, Responses to DIV-2-11, DIV-3-27, DIV-3-28, DIV-3-29). However, in any event, the Tariff language does not prevent the Company, or certainly the PUC, from determining that a system investment that benefits both an Interconnecting Customer and distribution customers generally can be subject to cost reimbursement if costs incurred by the Company to install the investment are incurred in part, or in full, outside of the specific five-year period (between the date the Company begins an impact study of the proposed DG project) noted in Section 5.4. Ultimately, the pace of the interconnection process will differ from project to project and is affected by factors outside of the control of the Company. The principle of the Interconnection Statute supporting interconnection cost sharing and reimbursement of shared costs, where benefits are demonstrated to multiple parties, should not be undermined by an exclusionary interpretation of language in the Interconnection Tariff.

B. The Company Opposes the Motion's Claim that Rhode Island Law and the Interconnection Tariff Do Not Allow the Cost of System Improvements That the Company Has Planned to Benefit Other Customers to be Assessed to Interconnecting Renewable Energy Customers.

The crux of Green's claim that the Interconnection Statute and Interconnection Tariff do not allow the Company to require Green to initially bear the cost of the construction of the system investments in question is that this system investment is exclusively a System Improvement (an investment that is economically justified and benefits distribution customers generally), rather than a System Modification (an investment that benefits an Interconnection Customer or Interconnection Customers only). The Company disagrees with this conclusion.

First, the Interconnection Statute specifically addresses pre-funding of investments that benefit distribution customers by Interconnection Customers where the investment benefits both parties:

> If the public utilities commission determines that a specific system modification benefiting other customers has been accelerated due to an interconnection request, it may order the interconnecting customer to fund the modification subject to repayment of the depreciated value of the modification as of the time the modification would have been necessary as determined by the public utilities commission. Any system modifications benefiting other customers shall be included in rates as determined by the public utilities commission.

R.I. Gen. Laws § 39-26.3-4.1(b).

As noted above, the Interconnection Tariff authorizes the Company to combine the installation of System Modifications with System Improvements:

> The Company may combine the installation of System Modifications with System Improvements to the Company's EDS to serve the Interconnecting Customer or other customers, but shall not include the costs of such System Improvements in the amounts billed to the Interconnecting Customer for the System Modifications required pursuant to this Interconnection Tariff. Interconnecting Customers shall be directly responsible to any Affected System operator for the costs of any System Modifications necessary to the Affected Systems.

Interconnection Tariff, Section 5.4(a).

Green's argument appears to rely, in part, on the phrase "but shall not include the costs of such System Improvements in the amounts billed to the Interconnecting Customer for the System Modifications required pursuant to this Interconnection Tariff" (Motion at 6). However, the next paragraph of Section 5.4 specifically addresses initial payment by an Interconnecting Customer for a "System Modification" that benefits other customers (i.e. an investment that could also be a "System Improvement"). Specifically, it states:

> Effective for Renewable Interconnecting Customer Applications filed on or after July 1, 2017, *in the event that the Commission determines that a specific*

> *System Modification of the electric distribution system benefits other customers and has been accelerated due to an interconnection request and orders the Renewable Interconnecting Customer to fund the modification, the Renewable Interconnecting Customer will be entitled to repayment of the depreciated value of the modification as of the time the modification would have been necessary as determined by the Commission*. Subsequent Renewable Interconnecting Customers will be responsible for prorated payments within ten (10) years of the earlier Renewable Interconnecting Customer's payment toward System Modifications.

Interconnection Tariff, Section 5.4(b)(emphases added).

The Petition is seeking a determination by the Commission that the system investments at issue benefit both Green and will benefit the Company's distribution customers, thus allowing the Company to require Green to initially fund these system investments, subject to repayment of the depreciated value of the investment as of the time the investment would have been necessary. Green's attempt to strictly distinguish a "System Modification" from a "System Improvement"[2] to support its argument that it should not have been assessed any costs associated with the system investment at issue is inconsistent with both the Interconnection Statute and the Interconnection Tariff and should be rejected by the Commission.

IV. CONCLUSION

As noted herein, the Company supports in part, and opposes in part, the legal claims raised in Green's Motion for Summary Disposition.

[2] The Motion mistakenly concludes that this should be a "mandatory separation" (Motion at 12).

Respectfully submitted,

The Narragansett Electric Company
d/b/a Rhode Island Energy

By its attorneys,

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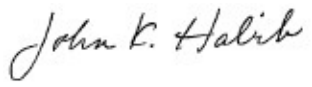

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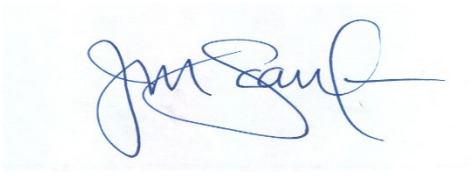
Dated May 20, 2024

CERTIFICATE OF SERVICE

I hereby certify that on May 20, 2024, I delivered a true copy of the foregoing Motion via electronic mail to the parties on the Service List for Docket No. 23-37-EL.

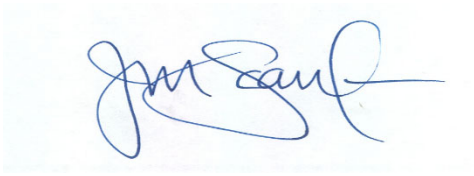


Joanne Scanlon

Certificate of Service

I hereby certify that a copy of the cover letter and any materials accompanying this certificate was electronically transmitted to the individuals listed below.

The paper copies of this filing are being hand delivered to the Rhode Island Public Utilities Commission and to the Rhode Island Division of Public Utilities and Carriers.



Joanne M. Scanlon

May 20, 2024
Date

Docket No. 23-37-EL Rhode Island Energy – Petition for Acceleration Due to DG Project – Tiverton Projects
Service List updated 5/20/2024

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