

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

<p>RE: THE NARRAGANSETT ELECTRIC) COMPANY D/B/A RHODE ISLAND ENERGY) TARIFF ADVICE TO AMEND THE NET) METERING PROVISION - PROPOSAL FOR) ADMINISTRATION OF EXCESS NET) METERING CREDITS)</p>	<p>DOCKET NO. 23-05-EL</p>
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**MASSAMERICAN ENERGY LLC dba GRIDWEALTH DEVELOPMENT'S
POST HEARING MEMORANDUM OF LAW**

This docket addresses the mechanic by which Rhode Island Energy (RIE) is to calculate the excess renewable net metering credit (the “Excess Credit”) in order to assess a billing charge on net metering customers. Neither the net metering statute nor the net metering tariff is clear on the specific mechanics used to calculate that billing charge; hence, RIE comes to the Commission for approval of its proposed mechanic and hence the Commission conducted four hearing days to receive evidence related to that proposed mechanic. MassAmerican Energy LLC dba Gridwealth Development (Gridwealth), files this post hearing brief to further explain and support its position on the proposed mechanic.

Both the law and equity support Gridwealth’s position that RIE’s proposed tariff revision ought to be amended to provide as follows:¹

(5) For purposes of administering Sections II(3) and II(4) of this Tariff, on a monthly basis, the Company will apply Renewable Net Metering Credits to the Net Metered Accounts for all kWh generated by the Eligible Net Metering System. On an annual basis, for the Eligible Reconciliation Pool, the Company will conduct a reconciliation ~~applying a volumetric method analysis as explained in this section and as presented in Schedule C.~~ The Company will compare kWh generated by the Eligible Net Metering System during the applicable 12-month period to the on-site consumption of the Net Metering Customer or the aggregate consumption of the Net Metered Accounts, as applicable, or to the three year average aggregate sum of the on-site consumption of the Net Metered Accounts of a Community Remote Net Metering System. If such consumption is less than the kWh generated by the Eligible Net Metering System during the applicable 12-month period, the Company will apply a billing charge to the Net Metering Customer’s account equal to the difference between the Renewable Net Metering Credit and the Excess Renewable Net Metering Credit in effect during the applicable 12-

¹ Revisions indicated in redlining of RIE’s October 24, 2023, filing of its amended tariff. Underlines indicate RIE’s proposed changes. Strikeouts and bolded text indicate Gridwealth’s proposed changes.

month period multiplied by the difference between the kWh generated by the Eligible Net Metering System and the consumption during the same 12-month period. If the kWh generated by the Eligible Net Metering System during the applicable 12-month period exceeds such consumption by more than 25 percent, the Company will apply a billing charge to the Net Metering Customer's account equal to the Renewable Net Metering Credit in effect during the applicable 12-month period multiplied by the kWh generated in excess of 125 percent of the consumption. Refer to Schedule C for volumetric method billing charges.

Schedule B – – Additional Information Required for Net Metering Service

Delete all proposed amendments.

Schedule C – Volumetric Method Billing Charges Billing Charges

Generation Consumption 100% No charge: customer was paid ~~the full value of a monthly~~ Renewable Net Metering Credit, all generation is eligible for the Renewable Net Metering Credit amount. 100%

Generation Consumption 125% Customer was paid ~~full value of a monthly~~ Renewable Net Metering Credit, this excess volume of generation is eligible for Excess Renewable Net Metering Credits, which are worth less at Last Resort Service. Charge = **the annual sum of the monthly value of Renewable Energy Credit paid ÷ full value of annual Renewable Net Metering Credit * the annual sum of the monthly value of Renewable Energy Credit paid - (Distribution + Transmission + Transition) * (Generation (kWh) 100% - 125%)**

Generation Consumption 125% Customer was paid ~~full value of a monthly~~ Renewable Net Metering Credit, this excess volume of generation is not eligible for any Net Metering Credit. Charge = **the annual sum of the monthly value of Renewable Energy Credit paid ÷ full value of annual Renewable Net Metering Credit * the annual sum of the monthly value of Renewable Energy Credit paid - (Last Resort Service + Distribution + Transmission + Transition) * (Excess Generation (kWh) > 125%)**

The Excess Renewable Net Metering Credit Billing Charges will be calculated using applied based on the annual weighted average last resort service rate as the base supply rate for each rate class. The annual weighted average rate for each rate class is the monthly last resort service rate weighted by the percentage of the annual generation generated in each month. The full value of the annual Renewable Net Metering Credit will be calculated using an annual average last resort service rate as the base supply rate for each rate class.

This amendment reverses RIE's proposal to change the existing methodology to introduce volumetric accounting rather than annual netting of the Renewable Net Metering Credit (the "Primary Credit") and the Excess Credit. The amendment establishes a ratio of the Primary Credit paid divided by the Primary Credit that would have been paid based on an annual average last resort service (LRS) rate. The ratio can then be multiplied by the actual Primary Credit paid to negate the distorted valuation resulting from seasonal impact of natural gas demand on electric rates. Gridwealth's methodology ensures that net metering customers that reduce demand for natural gas, especially during peak

electric load (summer), are not perversely penalized for the cost of natural gas demand to serve both thermal and electric customers.

- i. The Law Provides for an Annual Valuation of the Primary Metering Credit Before Assessment of a Billing Charge for Excess Credits.*

RIE relies on the language of R.I. Gen. § 39-26.4-3(a)(4) as implemented in section II (5) of the terms and conditions of its net metering tariff as its authority to conduct its proposed annual reconciliation.

If such consumption is less than the kWh generated by the Eligible Net Metering System during the applicable 12-month period, the Company will apply a billing charge to the Net Metering Customer's account **equal to the difference between the Renewable Net Metering Credit and the Excess Renewable Net Metering Credit in effect during the applicable 12-month period multiplied by the difference between the kWh generated by the Eligible Net Metering System and the consumption during the same 12-month period.**

(R.I. Gen. § 39-26.4-3(a)(4); The Narragansett Electric Company Net Metering Provision, R.I.P.U.C. No. 2241 hereinafter the "Tariff," page 9) (emphasis added). The annual reconciliation conducted to assess the "billing charge" must calculate both the annual value of the Primary Credit and the annual value of the Excess Credit.

RIE has consistently proposed to use the monthly crediting of the Primary Credit to set the annual "full value" by the sum of what was actually paid. That is despite its proposal to use an annual weighted average rate to calculate the annual value of the Excess Credit. (see e.g., Blazunas 10/5 Tr. at p. 71 "we're coming up with the weighted average billing charge, which will be applied to the excess generation for the annual period.") That discrepant mechanic violates the law/tariff and is inequitable. Gridwealth proposes to correct that discrepancy by accounting for the full value of the annual Primary Credit (that is otherwise devalued through seasonal variation in monthly rates) before deducting value for the Excess Credit in calculating the proposed billing charge.

The mechanic RIE proposes to come up with its proposed billing charge is not dictated by the existing net metering law or by any existing language of the Tariff. (10/5 Tr. at p. 10, Chair noting disagreement on RIE’s proposed mechanic that is to be addressed in proceeding; see also Gill & Russell Salk 10/25 Tr. at p. 433 – statute does not mention phrase “billing charge”) That is why RIE proposes a mechanic for Commission approval, and that is why the Commission conducted four days of hearings to evaluate the legality and equity of that proposed mechanic.

In fact, RIE even proposed to change its proposed mechanic in the midst of this proceeding. In its original tariff advice, RIE proposed to come up with the value of the billing charge for the Excess Credit by multiplying an average last resort service rate by the amount of overproduction. On page 15 the testimony was:

Specifically, the Company is proposing to apply an annual average of the LRS rate as the LRS rate fluctuates throughout the year.

Then RIE responded to PUC 1-4 as follows:

Request: Please explain how, specifically, RIE would determine annual averages for the purpose of calculating Billing Charges as described in the proposed Schedule C load-sited net metering facilities. Response:

Response: The Company would utilize the monthly tariff rates as shown in R.I.P.U.C. Tariff No. 2095 and R.I.P.U.C. Tariff No. 2096 to calculate the annual average Renewable Net Metering Credit and Excess Renewable Net Metering Credit for purposes of calculating the Billing Charges. For an example utilizing A-16 for 2022, please refer to PUC 1-4 Attachment. The Company calculated the Renewable Net Metering Credit and the Excess Renewable Net Metering Credit for each month of 2022 based on their respective components (Last Resort Service, Distribution, Transmission, and Transition) and subsequently computed their yearly mean values.

In response to that proposal, Gridwealth advocated that it would only be fair to value total production (before deducting any value for excess production) by multiplying the average LRS rate times the total annual production. If an average LRS rate would have generated more revenue than was paid to the customer, that excess value should be accounted for before assessing the excess net metering credit charge. (Gridwealth’s Memorandum of Law at p. 8).

In response to Gridwealth’s advocacy at the technical session, RIE decided to change its proposed mechanic to apply a “weighted average rate” to calculate the value of the Excess Credit and

calculate the billing charge over the annual period (8/16 Tr. at 57-60; 10/25 Tr. at pp. 354-60). That changed proposal made the calculation of the value of the Excess Credit more accurate based on the timed value of production, but it does not provide for an accurate annual assessment of the value of the Primary Credits issued to the customer for its production. That needs to be fixed.

The Commission directs Gridwealth to “address the reasons why it believes that the Commission has the authority to make such an adjustment.” (Attachment to Provisional Briefing Rules). The Commission has as much authority to correct RIE’s proposed mechanic as it has to approve of that mechanic. More expansively, the Commission orders Gridwealth and the parties to

address the significance, if any, of the fact that the General Assembly did not reference the last resort service rate alone, but defined the excess credit as being equal to the “avoided cost rate.” See the sentence within the definition of “excess renewable net-metering credit,” as follows:

Such excess renewable net-metering credit shall be equal to the electric distribution company’s avoided cost rate, which is hereby declared to be the electric distribution company’s last resort service kilowatt hour (kWh) charge for the rate class and time-of-use billing period (if applicable) applicable to the customer of record for the eligible net-metering system or applicable to the customer of record for the community remote net-metering system.

The statutory requirement to use the avoided cost rate to calculate the Excess Credit may not be consistent with RIE’s proposal, but it is otherwise irrelevant to Gridwealth’s advocacy. It appears to be inconsistent with RIE’s proposed Schedule C which references the LRS rate, not the avoided cost rate. It is not pertinent to Gridwealth’s advocacy which is about proper and equitable assessment of the full value of the annual Primary Credit as part of the mechanic applied to calculate and deduct the proposed billing charge. The Primary Credit is defined to include the “last resort service kilowatt-hour charge” as a component. R.I. Gen. Laws § 39-26.4-2(22); see also 10/5/23 Tr. at pp. 7-8 (net metering credit equal to last resort service rates). Indeed, the cited language is only relevant to Gridwealth’s advocacy to the extent it references a “billing period,” which, for these purposes of assessing a billing charge for the Excess Credit, must be an annual billing period for both the Excess and the Primary Credit, as is required by section II(5) of the Tariff (“the difference between the

Renewable Net Metering Credit and the Excess Renewable Net Metering Credit in effect during the applicable 12-month period;” see also Chair 11/5 Tr. at p. 8, excess credit measured over 12 months; Rossi 11/25 Tr. 359, need to apply weighted average here because billing cycles and related rate changes are not applied monthly; Russell Salk, 10/25 Tr. at 397).² The value of the Primary Credit must be assessed over a twelve month period. An annual monetary value cannot be established through RIE’s proposed volumetric approach; any calculation of an annual monetary value of a billing charge requires application of an annual average rate for both the Primary Credit and the Excess Credit.

Next the Commission directs Gridwealth to explain:

In order to adjust the last resort rate used for purposes of the annual reconciliation relating to the Excess Credits, as recommended by Gridwealth, would the Commission need to change the avoided cost rate referenced in the Docket 4268 Order?

Gridwealth’s advocacy does not pertain to the calculation of the value of the Excess Credit; it pertains to a legally and equitably consistent calculation of the full annual value of the Primary Credit before deducting value to assess the proposed billing charge associated with Excess Credits. To the extent that RIE’s proposal references use of the “last resort service” rate to calculate the Excess Credit instead of the “avoided cost” rate, the Commission’s concern is best addressed to RIE.

Finally, the Commission orders Gridwealth to explain:

Given the declaration by the General Assembly within the statutory definition, does the Commission have the authority to declare the avoided cost rate to be different for purposes of the annual reconciliation than what is declared in the statutory definition?

Gridwealth’s advocacy pertains to the proper calculation of the full annual value of the Primary Credit before deducting value for Excess Credits in a billing charge. If RIE’s proposed use of the

² Commission staff posited to RIE that it could choose to assess the billing charge for Excess Credits each month but RIE has not proposed that, it is not consistent with R.I. Gen. § 39-26.4-3(a)(4) or section II(5) of the Tariff, and it could not properly account for variation in use patterns that naturally occur over an annual period. (10/25 Tr. at 454)

LRS rate to calculate Excess Credits is inconsistent with the statutory definition, RIE can be ordered to correct that.

Commission Staff's examination of the RIE witnesses indicated that it may misunderstand Gridwealth's proposal. Staff inquired about whether the use of an average LRS rate to derive a higher Primary Credit value would actually result in a higher billing charge. (Bianco & Russel-Salk, 10/5 Tr. at pp. 180-81) In response to that questioning, RIE's witness confirmed that if the value of the annual Primary Credit is higher as the result of the application of an annual average LRS rate, then the Excess Credit would be subtracted from a larger number, leaving a higher net billing charge. Id. But, as laid out on pages 1-2 of this brief, Gridwealth's proposal is to calculate the ratio of the monthly Primary Credit paid to an annual Primary Credit that is properly based on an average LRS rate to net the impact of the annual value of the Primary Credit that should have been paid but for seasonal rate variation (driven by gas rates) before netting and subtracting the changed value for the Excess Credits. That proposed process will properly true up the annual value of the Primary Credit before penalizing overproduction with a billing charge.³

Commission staff also asked RIE's witness if the use of an average LRS rate to calculate an annual Primary Credit as part of the billing charge equation would be prohibited by R.I. Gen. Laws § 39-26.4-3 paragraph 5 subparagraph 5 which prohibits RIE from charging net metering customers a different rate than is assessed to load customers. 10/25 Tr. at 355. Taking the Staff's lead, RIE agreed that Gridwealth's proposal would be prohibited under that law. Id. at 356. However, that law requires that "[t]he rates applicable to any net-metered account shall be the same as those that apply to the rate classification that would be applicable to such account in the absence of net metering, including customer and demand charges, and no other charges may be imposed to offset net-metering

³ Later in that transcript, Commission staff did acknowledge that the application of an average rate to the Excess Credit is a different proposition than the application of an average LRS rate to value the Primary Credit. Id. at p. 85.

credits.” Gridwealth’s proposal does not seek to change the Primary Credit rate applied to the net metering account or to assess any added charges to that account that would not apply to a load customer. Instead, Gridwealth’s proposal seeks balance in RIE’s proposed mechanic applied in an annual valuation of the Primary Credit and the Excess Credit (i.e., using average rates for both, rather than just for the Excess Credit) before assessment of what would otherwise be an unbalanced and inequitable billing charge for excess production. (Blazunas & Gill 10/25 Tr. at p. 392-93 – RIE is not proposing a new rate but a mechanic to calculate a billing charge; Vale 10/26 Tr. at p. seeking proper valuation of electricity generation at the time produced by application of average LSR rate) There can be no dispute that load customers are not even assessed this proposed billing charge as part of their rates; so R.I. Gen. Laws § 39-26.4-3 paragraph 5 subparagraph 5 is inapplicable in this context.

Dr. Bianco’s questioning of RIE’s witness in this docket described the monetary method as a complete monetary netting of the amount paid versus the amount of the credit received on an annual basis. (Russell Salk, 10/25 Tr. at pp. 445-46). That was as the “monetary method” as discussed in RIPUC Docket 54-45-49, where the Company confused the Commission’s analysis of the difference between a monetary and volumetric reconciliation by proposing to clawback the rate differential between the generating account and the off-taker account as part of its monetary reconciliation method. (10/25 Tr. at 447-49 – discussing the “monetary approach” that claws back differential in C6 rate from generator account; Vale 10/26 Tr. at p. 493-94) That approach was and is inconsistent with the net metering statute which clearly requires the electricity from net metering customers must be valued at the rate applicable to the generating facility. (Vale, *Id.*; R.I. Gen. Laws § 39-26.4-2(7) - “All energy generated from any eligible net-metering system is, and will be considered, consumed at the meter where the renewable energy resource is interconnected for valuation purposes.”) In this proceeding, RIE does not propose such an adjustment to the netted rate; RIE proposes a mechanic to

value Excess Credits after netting. (Russell Salk, 10/25 Tr. 383-390; 411-414; Vale 10/26 Tr. at 627 – this is not ratemaking, it is chargemaking). RIE proposes a volumetric approach to assessing the billing charge for Excess Credits, whereas Gridwealth’s monetary approach to that mechanic properly values the Primary Credit on an annual basis (as required by section (ii)5 of the Tariff) before netting out any billing charge for Excess Credits. There is no “volumetric approach” to assessing a monetary billing charge; the netting of the Primary Credit against the Excess Credit is inherently a “monetary” mechanic. RIE proposes to insert the word “volumetric” into section (ii)(5) as a means to volumetrically net while avoiding the Tariff’s symmetrical mechanic for calculating the Primary and the Excess Credit for an annual billing charge. (Russell Salk, 10/25 Tr. pp. 397-98)

Both the statute and the tariff define Excess Renewable Net Metering Credit with a last sentence that reads, “[t]he Commission shall have the authority to make determinations as to the applicability of this credit to specific generation facilities to the extent there is an uncertainty or disagreement.” (R.I. Gen. Laws § 39-26.4-2(7), Tariff at p. 3) The general assembly was clear that in situations like this, where net metering customers disagree with RIE’s proposed mechanic to calculate billing charges associated with Excess Credits, the Commission is authorized to resolve any uncertainty or disagreement. Here, the law directs the Commission to resolve in favor of Gridwealth’s proposal, and the equities do too.

ii. The Record of this Proceeding Expose Equities That Require Careful Regulation and Correction of RIE’s Proposed Mechanic to Assess a Billing Charge for Excess Credits.

RIE exercises a monopoly over Rhode Island’s electric and gas systems and over gas service. (See An Act to Incorporate the Narragansett Electric Lighting Company (May 29, 1884); R.I. Gen. Laws §39-1-27.3) Starting with legislation passed in 1956, the Charters authorized Narragansett Electric Company to exercise the power of eminent domain to take land and operate its monopoly over our electric system as long as it does so in the “public interest” (Act in Amendment of Act to

Incorporate United Electric Power Company, S. 400 (1956); R.I. Gen. Laws §39-1-31). All subsequent charters incorporated that the system is to be operated for that “purpose for which they were taken.” (See 1956 Amendment, S. 400; 1964 Amendment, S. 607; 1976 Amendment, S. 2806). The Commission and the Division are charged to regulate RIE’s monopoly power to ensure that required service of the public interest. R.I. Gen. Laws §39-1-1(b) (provide fair regulation of public utilities and carriers in the interest of the public). The Commission and the Division have a common enabling act that call on both to regulate the way electric utilities carry on their operations to assure an abundance of energy supplied to the people with reliability, at economical cost, and with due regard for the preservation and enhancement of the environment. *Id.* at §39-1-1(c).

Such regulation is essential where RIE’s economic incentives do not match up with Rhode Island’s interest in lower electric rates. As established in the Transforming the Power Sector report produced by the State of Rhode Island, as led by the Division of Public Utilities and Carriers (our State’s “ratepayer advocate”):

[w]hile many industries have become more efficient over the last few decades by leveraging information technologies to more fully utilize capital investment, Rhode Island’s peak to average demand ratio is 1.98, meaning that nearly half of the utility’s capital investment is not utilized most of the time . . . To meet peak demand, our system currently invests in solutions that are more expensive than is necessary. . .

In the traditional regulatory model, electric utilities earn a return on investments based largely on the cumulative depreciated cost of the prudent capital investments. This model may exert a “capital bias” on the utility to deploy capital-intensive solutions. This occurs because the primary financial means through which the utility can grow its business and enhance earnings for shareholders is to invest in capital projects. This bias, created by the regulatory framework rather than by the utility itself, discourages the utility from seeking more efficient solutions that do not depend on large capital investments.

(Gridwealth Memorandum of Law at pp. 5-6, citing *Transforming the Power Sector Phase 1 Report* Nov. 2017 - https://ripuc.ri.gov/sites/g/files/xkgbur841/files/utilityinfo/electric/PST-Report_Nov_8.pdf), at pp. 13-14, 16).

The Division’s witness, Michael Brennan, neglected to opine on the law or equity of Gridwealth’s proposed change to RIE’s mechanic to calculate the excess credit and billing charge.

(DIV 1, Pre-filed Testimony of Michael Brennan). When asked at the hearing, Mr. Brennan said he did not understand it (Brennan, 11/9 Tr. at pp. 779-80). Mr. Brennan did say that as Rhode Island's ratepayer advocate, the Division does represent net metering customers as "ratepayers." But, the Division's prefiled testimony offered no position on Gridwealth's advocacy. That is a great disservice to Gridwealth, and to all ratepaying net metering customers, and to all ratepayers in Rhode Island.⁴ Ratepaying customers depend on the Division to fulfill its duty to regulate RIE's monopoly power to ensure service of the public interest and to assure an abundance of energy supplied to the people with reliability, at economical cost, and with due regard for the preservation and enhancement of the environment. R.I. Gen. Laws §39-1-1(b) - (c). In ignoring the substance of Gridwealth's position, the Division did not serve its function.

Less surprisingly, RIE's testimony in support of its tariff advice filing stated that net metering costs distribution system customers based only on the annual charge it assesses its ratepayers which is based on the difference between what it pays in net metering credits and what it then recovers for the electricity produced by net metering customers. (*Tariff Advice to Amend the Net Metering Provision - Proposal for Administration of Excess Net Metering Credits*, pre-filed testimony of Russell Salk and Briggs, p. 9; Russell-Salk 10/5 Tr. at p. 110) RIE's baseless conclusion about cost of net metering failed to consider the cost benefit analysis required by PUC docket 4600. (RIE Reply to MAE 2-1; Russell Salk 10/25 Tr. at pp. 401-403) Gridwealth moved for a supplemental response to MAE 2-1 seeking either a retraction of the unfounded conclusion or a proper analysis of all costs and benefits. The Commission denied that motion and did not require RIE to supplement the substance of its conclusion on the cost of net metering. (10/25 Tr. at pp. 224-25)

⁴ To understand Gridwealth's position, the Division would have had to pay attention to it. Gridwealth was billed over \$4000 for copies of the hearing transcripts for this proceeding and did not even get the courtesy of the ratepayer advocate's opinion on its position.

Gridwealth's witness did speak to the unaccounted-for value provided by net metering customers as a foundation for equitable treatment of this billing charge. (Vale, 10/26/23 Tr. pp. 478-481) Mr. Vale spoke to the reductions on demand on the distribution and the transmission grid, energy supply diversification, impact on capacity reserve, black start capabilities and deferred and avoided capital infrastructure investments. (Id. at pp. 478-61) Commission staff questioned Mr. Vale about the disconnected incentives between a distribution charge that recovers for existing distribution system costs and a net metering project's capacity to reduce future costs. (Id. at pp. 562-63)⁵ The Commission Chair and staff questioned Mr. Vale's statement that RIE gained from the benefits net metering provide to the electrical system and society. (10/26 Tr. at pp. 630-31) Mr. Vale's testimony acknowledged restructuring and RIE's prohibition from profiting off the sale of energy while testifying that:

there's also [stet] sorts of costs that the company incurs to, you know, have the poles, wires, systems, computers, personnel, retirees, everyone, right, that they put together to be ready to have the exclusive franchise of delivering electricity, you know, across public ways and throughout the state. So in the process of doing that, if they have either saved money or not had to spend money to effectively deliver their product, that is a savings or a benefit, you know, that the company has realized. Now, I'm saying that this excess generation meant that they maybe avoided some costs or had some costs -- you know, other saving or more efficiencies. So somewhere along the way there is some benefit to the company from all this excess generation. And if the charge is only related to LRS, and they bill back everything else, then something, something is not being accounted for.

(Id.) That line of inquiry fostered evident crossover and confusion between the interests of RIE and the interests of RIE's ratepayers. That confusion warranted and still warrants more attention.

In the effort to more directly and simply illustrate some of the benefits net metering customers provide to Rhode Island's distribution system and to the ratepayers obliged to fund that system, Mr. Vale testified regarding the path of electricity between two commercial facilities isolated in a rural part of Rhode Island. (Vale 10/26/23 Tr. pp. 470 - 472) In that hypothetical, one of the facilities was

⁵ See also RIPUC Docket 4600, *Stakeholder Report* (April 5, 2017) at p. 16 ("Rate design should be evaluated not only for its ability to recover costs, but also for the role that it can play in supporting the evolution of the system.")

a net metering customer (the “NM Facility”) and one was not, the second was just a recipient of electric load (the “Load Facility”). Id. He described that when the NM Facility over produces its own load the excess electricity flows directly to serve load requirements at the Load Facility. Id. at 471-72. In that case, Mr. Vale testified that the Load Facility “should be, I believe, getting a bill from the utility for that kilowatt hour that came in to them through that meter at the full retail rate of delivered electricity as, you know, authorized by the relevant tariffs of the utility in effect at that time.” Id. at 473. That bill would include the full amount of the service charge in addition to the supply rate. Id. Mr. Vale spoke to the economic benefits of that:

So in the prior example that we were talking about, the hypothetical with two businesses side by side, there certainly is a monetary benefit to the company to the extent that that physical electron has done this sort of U-turn between these adjacent buildings and the company is recovering from the receiving business a full retail rate that includes, you know, recovery of its distribution charges or distribution line item, which is to support the cost and the buildout of its distribution system when there's been really no use of its distribution system involved in this transaction at all. That kilowatt hour, you know, went out from the generator, it went -- it could have gone 6 inches and turned around and gone right back in through the other meter. So you know, that -- the utility's now collected a full retail rate but use of the distribution system hasn't really been invoked or used at all, so all of those wires, pole, substation, back office, you know, all that other maintenance and everything else isn't part of that transaction in that scenario.

Id. at 480-81 (see also Russel Salk, 10/5 Tr. at 130-131 – RIE receives value for electricity net metering customers generate that is over 125 percent of their load; Vale 10/26 Tr. at p. 603 – RIE distributes and gets paid for excess production during peak demand times and the net metering customer is paid nothing for it).⁶

Not having benefitted from RIE or the Division’s interest in fully understanding all of the costs and benefits of net metering before advocating with regard to the important policy issue of billing charges for Excess Credits, and in its need and continuing effort to convey a better illustration of those costs and benefits, Gridwealth also cross examined the Division’s witnesses about the path of electricity for those two scenarios. “Scenario One” was the same hypothetical presented to Mr. Vale;

⁶ The Docket 4600 analyses of locational value sadly were never conducted or required here (R.I.P.U.C. Order 22851, Stakeholder Report, at p. 14 “location-based strategies;” App. B – e.g., “Energy Supply Transmission & Operating Value” & “Distribution Delivery Costs”).

the one where the NM Facility over produces and the Load Facility has load requirements. (Brennan, 11/9 Tr. at p. 753-55). Mr. Brennan acknowledged that excess electricity from the NM Facility would run to a transformer and then go out on the distribution system. He was not clear that such electricity would then serve load requirements at the Load Facility. (Id. at pp. 757-58).⁷ Alternatively, in Scenario Two, the Load Facility has to get its load from the dominant source of electricity for Rhode Island, a natural gas fired power plant.⁸

Mr. Brennan described the full path of the electricity provided in Scenario Two. Since the large majority of Rhode Island's electricity comes from natural gas fired power plants around the region, the path of that electricity begins with fracking natural gas in Texas, Oklahoma, and the Gulf of Mexico. (Id. at p. 759). The gas then moves across gas transmission pipelines to gas-fired power plants serving our region. (Id.) Those power plants, located across the region, convert the gas to electricity. (Id. at pp. 764-65). The electricity is then sent across electrical transmission lines from the gas-fired power plant to an electrical substation where it is converted to distribution voltage. (Id. at p. 766) Then the electricity is discharged from that electrical substation to electrical distribution lines across which it is carried to a second substation that further regulates voltage to provide suitable electricity to the Load Facility. (Id. at pp. 766-67).

⁷ RIE's witness, Ms. Russel Salk, confirmed that RIE accepts excess electricity generated by net metering customers (electricity that exceeds the net metering customer's load requirements) and is paid for that electricity that is then sent to other customers (10/5 Tr. at 130-131). She also confirmed that RIE proposes not to pay a net metering customer for electricity generated that exceeds 125 percent of that net metering customer's load, per Rhode Island's net metering statute. Id. Neither RIE nor its predecessor has ever justified deflating the value of excess energy produced by net metering customers. See e.g., Docket 4268, Resp. to Div. 1-2 ([https://ripuc.ri.gov/sites/g/files/xkgbur841/files/eventsactions/docket/4268-NGrid-DR-DPU1\(9-14-11\).pdf](https://ripuc.ri.gov/sites/g/files/xkgbur841/files/eventsactions/docket/4268-NGrid-DR-DPU1(9-14-11).pdf)) (Company proposes that excess energy from net metering customers will be used to serve standard offer service load).

⁸ Gridwealth's counsel directed the Commission to our State Energy Plan (Energy 2035), which indicates that ninety eight percent (98%) of Rhode Island's electric load comes from natural gas. <https://planning.ri.gov/sites/g/files/xkgbur826/files/documents/LU/energy/energy15.pdf>, p. 19. The Commission Chair questioned that reading of Energy 2035, saying it lacked foundation and seemed mistaken. The Commission can take judicial notice of page 19 of Energy 2035 for these purposes. Regardless, there is no dispute that the record establishes that the predominant source of Rhode Island's electricity is natural gas. 11/9 Tr. at p.762.

When asked for his opinion of which electrical pathway might cost more for the electrical system and RIE's electrical ratepayers, Mr. Brennan would not opine.⁹ He did testify about RIE's economic interests in the steps it takes to deliver the dominant supply of electricity (natural gas fired electricity) to Rhode Island. First, RIE has an interest in natural gas supply and the price of natural gas, given its monopoly control of the natural gas supply and distribution markets, neither of which are restructured as competitive markets (in contrast to the electrical supply market). (Id. at pp. 775-76).¹⁰ Mr. Brennan did not know whether RIE has a financial interest in the gas transmission pipelines used to move fracked gas to gas-fired power plants. (Id. at p. 776).¹¹ Mr. Brennan also was not certain whether RIE has financial interest in the electrical transmission lines used to move generated electricity out of the natural gas fired power plants to our local distribution system. (Id. at pp. 776-77).¹² Mr. Brennan did confirm that RIE has financial interest in the substations used to convert that electricity to voltage suitable for it to be sent across the distribution system. (Id. at p. 777).¹³ RIE has financial interest in the distribution lines used to deliver the electricity to the Load

⁹ The Division's counsel so strenuously objected to this line of inquiry that one might question whether the Division had a proactive disinterest in true understanding of these scenarios. Id. The Commission asked for its technical foundation and relevance, but when advised of Gridwealth's interest in better exploring the cost implications beneath its pending policy choice, allowed Gridwealth to proceed with the questioning.

¹⁰ Gas supply is funded by electric ratepayers through the Commission approved electric supply rate ("last resort service" – see e.g., R.I.P.U.C. Docket 23-01-EL) and by gas (e.g., thermal) customers through the Commission approved Gas Cost Recovery rate, R.I.P.U.C. Docket 22-13-NG, 22-20-NG. After Rhode Island's "restructuring" of its electricity markets in 1996, Narragansett Electric (now d/b/a RIE) could no longer profit from the cost of electricity supply, only from the cost of moving that supply to its customers. R.I. Gen. Laws § 39-1-27.3 (see also Bianco 10/26 Tr. at pp. 630-31). But the gas supply market is not restructured; RIE does profit from supplying gas to customers for their thermal and other needs. The Gas Cost Recovery Rate even allows RIE transport fees for transporting gas to its firm gas supply customers. See Order 24562 at p. 1 (<https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2023-01/2213-2220-RIE-Ord24562%201-10-23.pdf>)

¹¹ Gas transmission pipelines are funded by electric ratepayers through the Commission approved electric supply rate ("last resort service" – see e.g., R.I.P.U.C. Docket 23-01-EL) and by gas customers through the Gas Cost recovery rate R.I.P.U.C. Docket 22-13-NG, 22-20-NG.

¹² Electric transmission lines and transmission substations are funded through Commission approved transmission service and transmission-related uncollectible expense rates (e.g., R.I.P.U.C. Docket 23-03-EL).

¹³ The Commission approved Infrastructure Safety and Reliability Plan addresses (i) capital spending on electric infrastructure; (ii) operation and maintenance ("O&M") expenses on vegetation management; (iii) O&M expenses on system inspection; and (iv) other costs related to maintaining the safety and reliability of the electric distribution system (e.g., R.I.P.U.C. Docket 22-53-EL).

Facility. (Id. at p. 777-78).¹⁴ The Division’s testimony illustrates that RIE’s economic interest is not so much in capturing the benefits customers get from distributed generation of electricity from net metering customers; RIE’s conflicting financial interest is in maintaining the costs that net metering customers would otherwise enable RIE ratepayers to avoid.¹⁵ Those avoided costs are the benefits to customers that RIE chooses not to fully assess when advocating in proceedings like this.¹⁶

Thus, when Gridwealth advocates that the seasonal variation of the last resort service rate inequitably penalizes net metering customers for thermal demand for natural gas, RIE is wholly unsympathetic. (See e.g., RIE reply to MAE 1-6(b); 1-7(c)-(d)) When Gridwealth suggests that RIE should use an average LRS rate to assess the annual value of the Primary Credit and thereby properly level out the seasonal valuation penalty, since it also proposes to use an annual average rate for the value of the Excess Credit, RIE is oppositional. (RIE reply to MAE 1-7(d))¹⁷ The value of the LRS rate fluctuates seasonally based on demand for natural gas, which drives the price of electricity.

¹⁴ Electric distribution system costs are funded through the Commission approved distribution service rate (e.g., R.I.P.U.C. Docket 4700).

¹⁵ Massachusetts allows the transfer of excess net metering credits at their full net metering credit value. (Vale, 10/26/23 Tr., p. 467-68) Yet, here in Rhode Island, Narragansett Electric and its advocates have convinced the general assembly to devalue excess net metering credits. In the 2023 legislative session, in closed door amendments after the legislative hearings, RIE and its advocates convinced the general assembly to further reduce the value of the net metering credit for all but rooftop facilities by 20 percent. 2023 R.I. Pub. Laws §§300-301. As the Commission rightly established in docket 4600, “All parties should provide fair compensation for value and services received and should receive fair compensation for value and benefits delivered.” R.I.P.U.C. Order 22851, Stakeholder Report, at p. 12.

¹⁶ The Commission can take notice that in Pennsylvania Power & Light’s (PPL) powerpoint presentation to its shareholders on the benefits of the acquisition of Narragansett Electric Company, produced in Division docket D-21-09, in response to DIV 1-1 to PPL at Attachment PPL-DIV 1-12-5 Page 6 of 21, PPL noted that: “i) Narragansett Electric Company had adjusted net income of \$150 million in the fiscal year ending March 31, 2021; ii) there is significant geographic overlap between Narragansett’s electric and gas operational territories; iii) Rhode Island is a constructive regulatory jurisdiction (RRA – Avg/2) (recovery mechanisms reduce regulatory lag); iv) further opportunities to invest in electric and gas infrastructure (annual rate base growth greater than 9% over the past 5 years); v) historical rate base growth – 9.3% CAGR from 2015 through 2020; vi) “Historical Capital” up from \$271 million in 2017 to \$321 million in 2020 (Infrastructure Safety and Reliability program allows for recovery of “natural gas and electricity distribution capital investments and expenses for *ISR* outside of rate proceedings and FERC allows formula rates for transmission investments).” In that docket D-21-09, the Division did not ask how these profit motives might serve the public interest, as required by its Charter.

¹⁷ Like the Division, RIE elected not to respond to the substance of Gridwealth’s position on this in its memorandum of law, saying only that Gridwealth was only espousing policy positions that would be addressed by its witnesses in the hearings.

(Vale Prefiled at p. 6; RIE’s Reply to MAE 1-5; Gill 10/25 Tr. at p. 376). But, since our homes and businesses are also predominantly heated with natural gas, demand for natural gas, and the price of natural gas, is also driven by the market for thermal energy. Id. Net metering customers only participate in the electricity market. (RIE Response to MAE 1-4, 2-10) They typically produce more electricity in the summer than in the winter. (Blezanus 10/5 Tr. at 107 – in 2022, net metering customers produced 100 million more kilowatt hours in summer than in winter). They typically consume more electricity in the winter than they produce. Id. Thus, when net metering customers are over-producing their consumption, that overproduction is credited at a seasonally low LRS rate. (Vale Prefiled at p. 7; Vale 10/26 Tr. at 510 – assessing netted charge based on seasonal variation driven by natural gas fundamentally unfair). But, when they overconsume their production in the winter, they are charged for that net consumption at a seasonally high LRS rate. Id. Net metering customers produce the most electricity in the summer when the demand for electricity is at its highest. Id. (see also Gill 10/25 Tr. at 376-77; Russell Salk & Gill 10/25 Tr. at pp. 378-79) But they are not charged/credited based on the impact they have on summer peak electric load. Id. Instead, they are net charged/credited based on the cost of natural gas, which is largely driven by winter demand for thermal customers. Id. It is not at all surprising that RIE has no interest in acknowledging or correcting this imbalance, given its competing economic interests.¹⁸ But, it is a true shame for Rhode Island ratepayers that the Division did not acknowledge or respond to it.

¹⁸ All the while, RIE has claimed an unauthorized right to collect a charge from ratepayers the difference between what net metering customers are paid and the price it receives for power it reports to ISO-NE as a settlement only generator. Tariff at IV(2); RIE Resp. to MAE 2-1; Russell Salk 10/5 Tr. at p. 110. The net metering law does not authorize RIE to recover that charge. R.I. Gen. Laws § 39-26.4-3(c). RIE has claimed that right in its tariff, citing R. I. Gen. Laws §39-26-6(h) as its authority, ever since net metering was part of its *Qualifying Facilities Power Purchase Rate Tariff*. R.I.P.U.C. Docket 4079, R.I.P.U.C. 2035, at sheet 7; R.I.P.U.C. Docket 4226, *February 2011 Electric Retail Rate Filing* at p. 25. But, there has been no section (h) in R. I. Gen. Laws §39-26-6 since 2016. Nor is there evidence to support a ratepayer charge to compensate RIE for any net cost attributable to net metering customers. Such unaccounted for costs attributed to competition are commonly known as “monopoly rents” designed to discourage support for more efficient and cost

The dispute between these parties leaves the Commission deciding which proposed alternative best serves the interest of Rhode Island and RIE's ratepayers. Gridwealth has urged and urges the Commission to refer to the statutory purposes of net metering:

to facilitate and promote installation of customer-sited, grid-connected generation of renewable energy; to support and encourage customer development of renewable generation systems; to reduce environmental impacts; to reduce carbon emissions that contribute to climate change by encouraging the local siting of renewable energy projects; to diversify the state's energy generation sources; to stimulate economic development; to improve distribution system resilience and reliability; and to reduce distribution system costs.

RI. Gen. Laws § 39-26.4-1. Gridwealth asks the Commission to also consider the concerns and goals of our state energy plan, Energy 2035:

Rhode Island cannot afford a business-as-usual course of action that increases energy security risks to the state, costs more than viable alternative paths, and fails to meet our obligation to mitigate the worst consequences of global climate change. Because the impact of long term planning and investment choices will reverberate for decades to come, we must be especially prudent and strategic as we address the weighty energy policy decisions that face us today. (p. 4)

Expenditures on energy in Rhode Island have risen significantly in real terms over the past decade. As of 2010, annual expenditures in Rhode Island on electricity, thermal, and transportation fuels total approximately \$3.6 billion, up nearly \$1 billion from 10 years ago. Much of this increase is due to growing costs in the thermal and transportation sectors, which depend more heavily on high-cost petroleum-based fuels. (p. 20)

As detailed in Figure 25, viable demand- and supply-side options exist for Rhode Island to increase in-state fuel diversity and increase energy security by shifting away from dependence on fuels like natural gas and gasoline. By far, Rhode Island's greatest available resource is energy efficiency. By maximizing demand reduction in all energy sectors, the state could cut economy-wide energy use by more than one third. Supply-side resources with the most significant potential future contributions are offshore wind, combined heat and power, distributed photovoltaic solar power, and natural gas. (p 41)

Rhode Island's primary challenge is to move away from its heavy reliance on natural gas, which today supplies more than 50 percent of Rhode Island's energy needs. Dependence on natural gas exposes the state to a substantial amount of price risk and potentially a supply risk, since Rhode Island sits at the end of a long stretch of pipeline infrastructure. The challenge is underscored by natural gas's important role across multiple sectors: natural gas provides fuel for nearly all in-state generating capacity, and is the dominant heating fuel in the thermal sector. Moreover, natural gas generation accounts for more than 50 percent of regional electric generation, so electricity imports to Rhode Island are also heavily dependent on natural gas. (pp. 43-44)

According to the Plan analysis, aggregate capital investments of between \$6.8 billion and \$7.3 billion in the efficiency, electric, thermal, and transportation sectors could generate between \$8.8 billion and \$14.5 billion in power and fuel expenditures in net present value terms over the life of the Energy 2035 planning horizon (Figure 30). Total net present value benefits range from \$1.6 billion to \$7.7 billion, depending on the scenario. This suggests that taking ambitious action to improve Rhode Island's energy

effective competitive supply options. See A. Peskoe, *Unjust, Unreasonable, and Unduly Discriminatory: Electric Utility Rates and the Campaign Against Rooftop Solar*, 11 Tex. J. of Oil, Gas, and Energy L. (2016).

security, cost effectiveness, and sustainability of its energy system is a good investment decision and a powerful economic strategy for generating long-term growth. (p 47)¹⁹

The General Assembly's goals for net metering and the interests of Energy 2035 will not be served absent diligent regulation to direct fulfillment of those objectives, as Gridwealth advocates in this docket.

iii. *The Proposed Amendment of Schedule B to Require Developers to Identify as Close to 100% of Their Proposed Credit Recipients Long Before Commercial Operation Does not Serve the Purposes of the Net Metering Law or Rhode Island Policy and Should be Rejected.*

Developers cannot rightly be expected to identify all or nearly all of their net metering credit recipients at the time their interconnection application is processed, when they file their Schedule B. (Russell-Salk, 10/5 Tr. at p. 202; Chair 11/9 Tr. at) A developer must know that it has a viable project before it can commit to its credit recipients or its customers can be expected to commit to the developer. Interconnection is only one step to confirming viability of project development. As Mr. Vale testified:

There's also a practical reason, is that it's really difficult to actually go and sign up offtake and say I'm going to get you these utility credits and not start transmitting the credits to them for a year and a half or something like that. And you know, when you find someone, and they want to sign the contract, they want to start getting the credits in the next, you know, two, three months, as quickly as possible.

So it makes sense for me to know that I've completed the solar array, it's online and operating, then I can go and actually knock on the offtaker door and say, I just turned this system on, if you sign up, I can start getting you credits in 30, 60 days. And a lot of times, without that, and I've had this experience, where, you know, if I sign them up far in advance of that date, they totally forget about the relationship, they're like, I haven't heard from you guys in nine months. And some of this is on me, admittedly. But it's difficult to, you know, promise someone utility savings and not deliver to them, you know, for a year or so.

(Vale, 10/26 Tr. at p. 539) There is no good reason that RIE needs to know who will receive net metering credits before a project is put into commercial operation. Requiring such disclosure inappropriately forces developers to issue and get full commitments to/from each of their net

¹⁹ Gridwealth Memorandum of Law at pp. 5-6, citing Energy 2035 (<https://planning.ri.gov/sites/g/files/xkgbur826/files/documents/LU/energy/energy15.pdf>). RIE's witnesses would not confirm that Narragansett Electric Co. (now doing business as RIE) participated in the development of Rhode Island's State Energy Plan. (Gill & Russell Salk 10/25 Tr. at p. 400) But, Energy 2035 very clearly indicates that they did.

metering customers long before the project is able to be developed. That does not work sequentially. It assuredly does not serve the purpose of the net metering statute, “to facilitate and promote installation of customer-sited, grid-connected generation of renewable energy.”

- iv. *The Renewable Energy Industry is Entitled to a Neutral Administrator of all Programs and Tariffs Designed to Enable Achievement of Rhode Island’s Renewable Energy Goals.*

For the reasons stated herein and repeated in a long history of advocacy on like concerns, the renewable energy industry should be afforded an independent, neutral, well-informed, experienced and capable administrator of all programs and tariffs as needed to allow for accomplishment of Rhode Island’s renewable energy goals. It is fundamentally incongruous and inequitable to have access to our electrical grid and to our state renewable energy programs overseen by a monopoly utility that has such overwhelmingly conflicting economic interests.

CONCLUSION

In the end, these issues are not as complicated as they are made out to be. At bottom, the simple proposition is that net metering customers ought to be able to produce locally generated electricity to market and be acknowledged, appreciated and rewarded for the costs that are avoided in their doing so. The complications only come with artifices like the “Excess Credit” and the “Net Metering Charge” that are contrived by existing economic interests (and their lobbyists and advocates) to discourage local production and maintain existing revenue streams at the cost of ratepayers and sound public policy.

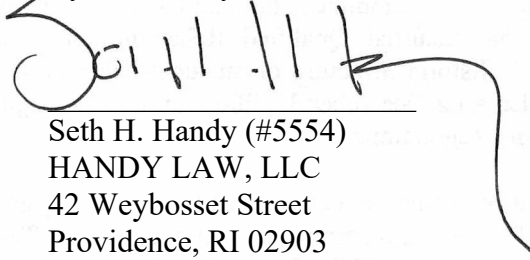
Gridwealth asks the Commission to fulfill its duty to regulate RIE’s monopoly power to ensure service of the public interest and to assure an abundance of energy supplied to the people with reliability, at economical cost, and with due regard for the preservation and enhancement of the environment. R.I. Gen. Laws §39-1-1(b) - (c). Gridwealth asks the Commission to order the following in this docket:

- 1) That RIE modify the proposed tariff amendments as provided on pages one and two of this brief; and
- 2) That RIE establish full and accessible transparency so all net metering customers can know openly in advance whether they need to transfer Renewable Net Metering Credits to avoid billing charges for Excess Credits (Russell Salk 10/25 Tr. at 279-80); and
- 3) That RIE establish ease of access to allow easy electronic transfer of Renewable Net Metering Credits between different accounts; and
- 4) That RIE may only reconcile Excess Credits and the proposed billing charge on a prospective basis beginning with the full calendar year of 2024 (10/5 Tr., at p. 10, no “clawback” predating resolution of this proceeding); and
- 5) That RIE allow one or more transfers of Renewable Net Metering Credits between accounts to avoid the billing charge before these tariff changes are implemented (Chair 10/5 Tr., at p. 10 - no “clawback;” Russell Salk 10/25 Tr. at 292-93; 301-302 – credit transfers between accounts have been allowed and could be allowed at Commission direction); and
- 6) That RIE assess the proposed billing charges directly to the net metered account that is given the Primary Credits, not to the host account, apportioned based on the schedule B allocation (Rossi 10/25 Tr. at 272-73; 11/9 Tr.at pp. 847-49); and
- 7) The Commission appoint an independent, neutral and well experienced and informed administrator to oversee and ensure proper implementation of all of Rhode Island’s renewable energy programs and tariffs.

Respectfully submitted,

**MASSAMERICAN ENERGY LLC dba
GRIDWEALTH DEVELOPMENT,**

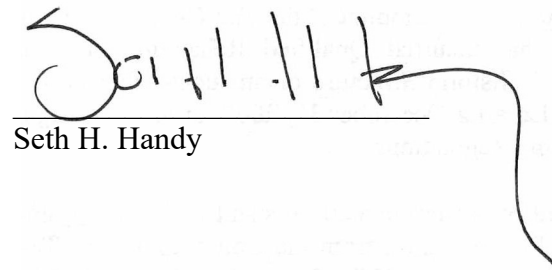
By its attorney,

A handwritten signature in black ink, appearing to read 'Seth H. Handy', is written over a horizontal line. A long, curved line extends from the end of the signature down and to the right.

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CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2023, I sent a true copy of the document by electronic mail to the PUC and the service list.

A handwritten signature in black ink, appearing to read 'Seth H. Handy', is written over a horizontal line. A long, curved line extends from the end of the signature down and to the right.

Seth H. Handy