

September 16, 2016

BY HAND DELIVERY AND ELECTRONIC MAIL

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

**RE: Docket 4483 – Wind Energy Development, LLC (WED) and ACP Land, LLC
Petition for Dispute Resolution Relating to Interconnection
National Grid’s Private Letter Ruling Compliance Filing
Status Update**

Dear Ms. Massaro:

I write to provide the PUC with an additional status update in the above-referenced matter. In National Grid’s¹ August 26, 2016 letter to the PUC regarding the Internal Revenue Service’s (IRS) Notice 2016-36 (the New Notice), which addresses the “safe harbor” under Internal Revenue Code Section 118(b) for contributions of property to regulated public utilities, the Company explained its position regarding the New Notice and highlighted the ambiguities in the New Notice regarding whether the Distributed Generation (DG) interconnections are now exempt from taxation. In the August 26, 2016 letter, the Company also informed the PUC that, given the ambiguities in the New Notice, it did not yet make a final determination on whether, under the New Notice, DG Interconnections are exempt from taxation. Consequently, the Company explained that it is continuing discussions with its tax advisors on this question and that it will update the PUC soon as that work is complete. The Company’s Tax Department has formally engaged its consultant, Ernst & Young LLP, to provide it with a thorough written analysis of the New Notice so the Company can determine how best to proceed regarding DG Interconnections. The Company expects to have Ernst & Young’s written analysis by the end of September 2016. At that point, the Company will provide an update to the PUC regarding whether it intends to continue collecting taxes for DG Interconnections.

In correspondence to the PUC dated August 30, 2016 and September 15, 2016, Wind Energy Development LLC (WED) and ACP Land, LLC (Petitioners) have requested that the PUC prohibit the Company from collecting taxes for DG interconnections and that the PUC schedule an open meeting in this matter. Petitioners have also requested that the PUC sanction the Company for collecting the taxes, arguing that there has been “longstanding clarity in the industry regarding the application of this safe harbor to distribution system interconnections.” (See Petitioners’ August 30, 2016 letter at p. 2). The record in this docket clearly establishes

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

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that there has not been any longstanding clarity that DG Interconnections are eligible for the safe harbor. This is clear from the private letter ruling issued to the Company's affiliate, Massachusetts Electric Company, for a project in MA in February of this year in which the IRS ruled that DG interconnection transactions were taxable.

Moreover, as the Company explained in its August 26, 2016 letter in this docket, it must use its own informed business judgment regarding whether DG Interconnections are taxable because it will be responsible for paying federal taxes on these transactions. Therefore, the Company respectfully requests that the PUC not schedule this matter for an open meeting until National Grid submits its final update to the PUC regarding whether it will continue to collect taxes for DG Interconnections. National Grid cannot submit this final update until it receives the analysis from its advisors, which it expects to receive by September 30, 2016. At that time, the Company will make a final determination regarding whether the New Notice applies to DG interconnections and will provide a final update to the PUC in early October once it reviews the analysis from its advisors.

Finally, in their August 30, 2016 letter, Petitioners request evidence of National Grid's compliance with the requirement to itemize and true up actual interconnection costs versus estimated costs. National Grid is unclear of what type of evidence Petitioners are seeking. However, National Grid submits that it has been itemizing and truing up actual interconnection costs vs. estimated costs for DG Interconnection projects. In addition, Petitioners request an update on the status of "the promised interconnection queue for facilities over 15kW." (*See* Petitioners' August 30, 2016 Letter at p. 2). At an open meeting on January 15, 2016, the PUC ordered that, within six months of the open meeting decision, National Grid shall report on the status of its review of the Division's recommendation to implement a publicly available website on which the Company's distribution generator interconnection queue for facilities over 15 kW can be reviewed by any interested party. On July 14, 2016, the Company submitted the required status report to the PUC regarding the DG interconnection queue for facilities over 15kW.

Thank you for your attention to this matter. If you have any questions, please contact me at 781-907-2121.

Very truly yours,



Raquel J. Webster

cc: Docket 4483 Service List
Leo Wold, Esq.
Steve Scialabba, Division

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

September 16, 2016
Date

**Docket No. 4483 – Wind Energy Development LLC & ACP Land, LLC –
Petition for Dispute Resolution Relating to Interconnection
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