

December 15, 2017

**VIA HAND DELIVERY & ELECTRONIC MAIL**

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

**RE: Docket 4763 - Standards for Connecting Distributed Generation, RIPUC No. 2180  
National Grid's Objection to NERI's Motion to Intervene**

Dear Ms. Massaro:

Pursuant to Rule 1.13, enclosed please find 10 copies of National Grid's<sup>1</sup> objection to New Energy Rhode Island (NERI's) motion to intervene the above-referenced docket.

Thank you for your attention to this filing. Please contact me if you have any questions concerning this matter at 401-784-7288.

Very truly yours,



Jennifer Brooks Hutchinson

Enclosures

cc: Docket 4763 Service List  
Jon Hagopian, Esq.  
Steve Scialabba

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<sup>1</sup> The Narragansett Electric Company d/b/a National Grid.

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

December 15, 2017  
Date

**Docket No. 4763 – National Grid - Standards for Connecting Distributed Generation,  
RIPUC No. 2180**

**Service List updated 11/10/17**

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<b>File an original &amp; 9 copies w/:</b> Luly E. Massaro, Commission Clerk <b>Public Utilities Commission</b> 89 Jefferson Blvd. Warwick, RI 02888	<a href="mailto:Luly.massaro@puc.ri.gov">Luly.massaro@puc.ri.gov</a> ; <a href="mailto:Cynthia.WilsonFrias@puc.ri.gov">Cynthia.WilsonFrias@puc.ri.gov</a> ; <a href="mailto:Alan.nault@puc.ri.gov">Alan.nault@puc.ri.gov</a> ; <a href="mailto:Todd.bianco@puc.ri.gov">Todd.bianco@puc.ri.gov</a> ;	401-780-2107
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**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**  
**RHODE ISLAND PUBLIC UTILITIES COMMISSION**

**IN RE: TARIFF ADVICE TO AMEND )**  
**ELECTRIC TARIFF, ENTITLED ) DOCKET NO. 4763**  
**STANDARDS FOR CONNECTING )**  
**DISTRIBUTED GENERATION, RIPUC )**  
**2180 )**

**OBJECTION OF NATIONAL GRID TO MOTION FOR INTERVENTION OF  
NEW ENERGY RHODE ISLAND**

**I. INTRODUCTION**

This memorandum is submitted by National Grid<sup>1</sup> in accordance with the Rhode Island Public Utilities Commission (PUC) Rule 1.13 in response to the motion to intervene (Motion) of New Energy Rhode Island (NERI) in the above-captioned docket. National Grid objects to NERI's Motion on the basis that NERI's Motion fails to meet the criteria for intervention under PUC Rule 1.13, and, moreover, the Motion is untimely.

On October 31, 2017, National Grid filed by Tariff Advice certain proposed revisions to the Company's electric Tariff, entitled Standards for Connecting Distributed Generation, RIPUC No. 2180 (Tariff). The primary purpose of this filing was to comply with and implement the recently enacted amendments to the Distributed Generation Interconnection standards, R.I. Gen. Laws § 39-26.3-4.1 (DG Interconnection Standards). The amendments were designed to, among other things, specify the manner in which the Company can charge renewable energy customers for system modifications to interconnect to the electric distribution system (System Modifications). The amended law also placed certain timeframes on the Company to complete the application process and System Modifications, and, further, allows for the replacement of an

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<sup>1</sup> The Narragansett Electric Company d/b/a National Grid, hereinafter referred to as "National Grid" or the "Company".

existing renewable energy resource subject to limitations on study time and System Modification costs. In its filing, National Grid sought to amend its Tariff consistent with these amendments to the DG Interconnection Standards. In addition, the Company proposed other revisions to its Tariff to address certain processes as a result of the amended DG Interconnection Standards.

On November 7, 2017, the PUC held a prehearing conference in this docket to discuss the Company's filing and set a procedural schedule. The PUC sent notice of the November 7, 2017 prehearing conference to the service list for the docket on November 3, 2017.<sup>2</sup> At the November 7, 2017 prehearing conference, the PUC set the deadline for interventions as November 17, 2017 and distributed the full schedule to the service list on November 10, 2017.<sup>3</sup> NERI's counsel was included on the service list in both instances. Despite having received notice of the prehearing conference, neither NERI, nor its counsel, attended.

On December 5, 2017, almost a month after the prehearing conference, NERI's counsel filed a late motion to intervene, together with an Objection to the Company's proposed Tariff revisions. NERI did not include an explanation or basis for why it was filing a late intervention. Furthermore, contrary to NERI's statement in its Motion that its counsel informed the service list of NERI's intent to intervene in the docket and was not informed of any objection,<sup>4</sup> National Grid did not receive any notice of such intervention prior to NERI's late December 5, 2017 filing. National Grid opposes NERI's late Motion because NERI has not shown good cause for its delay in accordance with Rule 1.13(d).

In addition to being untimely, NERI's Motion also fails to satisfy the criteria for intervention under Rule 1.13(b). NERI states that its member participants for this proceeding currently include Newport Solar, Heartwood Group, Inc., and Providence Energy, LLC, and that

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<sup>2</sup> See Email from Luly Massaro, Commission Clerk, dated November 3, 2017.

<sup>3</sup> See Procedural Schedule, Docket No. 4763 (November 8, 2017).

<sup>4</sup> NERI Motion, at ¶ 4.

they “expect additional entities to join in this advocacy and will update the PUC with any new participants.”<sup>5</sup> Although NERI states that its member participants are either developers or have ownership or other financial interests in renewable generation projects, NERI provides no details with respect to how those projects will be directly affected by the PUC’s decision in this Tariff Advice filing. In addition, NERI states it will advocate for positions that are “consistent with the public interest as put forth in many Rhode Island statutes and public policies” and “are manifest in the projects in which NERI has interest. . . .”<sup>6</sup> Except for such conclusory statements, NERI fails to state the specific public interest for which it will be advocating in this proceeding or how such public interest will not be served by other parties in the proceeding, i.e. the Division of Public Utilities and Carriers (Division), whose statutory role includes advocating for the public interest. Furthermore, NERI does not need intervenor status to advocate for its positions in this proceeding, and may still do so through submission of public comment, for which the PUC may attribute such weight as it deems appropriate.

For these reasons and the reasons discussed in more detail below, National Grid respectfully requests the PUC deny NERI’s Motion. In the alternative, should the PUC determine that such late intervention meets the criteria of Rule 1.13 and is appropriate, the Company urges the PUC to exercise its discretion under Rule 1.13(d) to only grant such intervention subject to certain limitations and/or conditions, such as limiting NERI’s participation to the filing of testimony or comments, but not permitting NERI to issue discovery or file an appeal. Such limitations will protect National Grid from procedural delays and administrative inefficiencies.

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<sup>5</sup>Id., at ¶ 1.

<sup>6</sup>Id., at ¶ 7.

## II. LEGAL STANDARD

To intervene in a proceeding under PUC Rule 1.13, a party must establish that its right to intervene is either conferred by statute or that the movant has met one of two other criteria for intervention status. Specifically, PUC Rule 1.13(b) states that a motion to intervene must demonstrate that one or more of the following three criteria is met:

- (1) A right conferred by statute.
- (2) An interest which may be directly affected and which is not adequately represented by existing parties and as to which movants may be bound by the Commission's action in the proceeding. (The following may have such an interest: consumers served by the applicant, defendant, or respondent and holders of securities of the applicant, defendant, or respondent).
- (3) Any other interest of such a nature that movant's participation may be in the public interest.<sup>7</sup>

The PUC has reiterated that it will be cautious in granting intervenor status and will work to ensure that a movant actually meets one of the three criteria established in PUC Rule 1.13(b).<sup>8</sup>

Rule 1.13(d) permits the filing of a motion to intervene at any time “but in no event later than the date fixed for the filing of motions to intervene in any order or notice with respect to the proceedings issued pursuant to these rules, or, where no date is fixed for the filing of motions, the date of hearing, unless, *for good cause shown*, the PUC authorizes a late filing.” (Emphasis added). Generally speaking, the PUC does not look kindly upon late motions to intervene because tardiness in intervening can cause undue delay.<sup>9</sup> Further, even if a late intervention is permitted, PUC Rule 1.13(f) specifies that the PUC may not “allow the broadening of issues

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<sup>7</sup> See, e.g., The Narragansett Electric Company d/b/a National Grid, Order No. 18794 (December 27, 2006).

<sup>8</sup> Narragansett Electric Company, Docket No. 3739, Order No. 18794, at 17 (December 27, 2006) (citing, In Re: Hi-Speed Ferry, LLC, 746 A.2d 1240, 1245-1246 (R.I. 2000)). See also Block Island Ferry, Docket No. 3655, Order No. 18157 (February 18, 2005) (denying a motion for intervention in a Block Island Power rate case despite the fact that the group seeking intervenor status represented approximately 200 residents).

<sup>9</sup> In Re: Verizon–Rhode Island’s Telric Studies – UNE Remand, Docket No. 2681, Order No. 16808 (December 3, 2001); 2001 R.I. PUC Lexis 24 (R.I.P.U.C. Nov. 15, 2001).

unless the public interest requires it and no undue prejudice or hardship will result to other parties to the proceeding.”

### **III. LEGAL ANALYSIS**

For the reasons discussed below, NERI has failed to meet the requirements of Rule 1.13 and its Motion should be denied.

#### **A. The PUC Should Deny NERI’s Motion Because NERI Lacks Standing To Intervene In This Proceeding.**

NERI has not demonstrated that it has satisfied any of the PUC’s criteria for intervention and, therefore, lacks standing to intervene. First, NERI has not cited to any statutory basis for its intervention and, in fact, there is no such statutory right conferred upon NERI by Rhode Island law.

Second, NERI claims that Rule 1.13 allows any person “claiming an interest of such nature that intervention is necessary or appropriate may intervene in any proceeding before the PUC.”<sup>10</sup> NERI misstates the standard under Rule 1.13. Rule 1.13(b)(2) requires that the movant have “[a]n interest which may be directly affected and which is not adequately represented by existing parties and as to which movants may be bound by the Commission’s action in the proceeding.” In addition, Rule 1.13(c) requires that a motion to intervene set out clearly and concisely the facts from which the nature of the movant’s alleged right or interest can be determined, the grounds of the proposed intervention, and the position of the movant in the proceeding. NERI has provided no facts upon which a specific interest can be determined or the grounds for its intervention. NERI’s sole basis for intervention is that its member participants are developers or have ownership or other financial interests in renewable energy generation projects<sup>11</sup>; however, a mere ownership or financial interest in a renewable energy project does not establish “an interest which

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<sup>10</sup> NERI Motion, at ¶ 3.

<sup>11</sup> Id., at ¶ 2.

may be directly affected” and as to which NERI’s participants may be bound by the PUC’s action in this proceeding.<sup>12</sup> NERI further states that the Company’s proposed Tariff revisions threaten and impede existing and planned renewable energy projects in which NERI members have an interest.<sup>13</sup> Again, NERI offers no facts in support of this statement or the nature of its members’ interest in such projects. Although the PUC’s decision to approve or deny the Company’s Tariff Advice filing may affect NERI or its member participants, NERI has failed to establish a “direct” interest as contemplated by the PUC rules and precedent. NERI has also failed to establish that no other party can adequately represent its interests in the proceeding. The Division is a party by right in any proceeding before the PUC and is the position to represent the interests of customers, which would include renewable energy developers.

In addition, NERI should not be allowed to leave the door open for “additional entities to join in this advocacy.”<sup>14</sup> NERI has not established any basis upon which such entities should be allowed to intervene under Rule 1.13, and doing so will risk further delay and inefficiencies in this proceeding.

Lastly, NERI has not satisfied the third criteria set forth in PUC Rule 1.13(b), which requires that the movant demonstrate “any other interest of such a nature that movant’s participation may be in the public interest.” Although NERI states that it will advocate for positions that are “consistent with the public interest as put forth in many Rhode Island statutes and public policies,”<sup>15</sup> NERI offers no specific support for the specific public interest that its participation will serve, or the specific Rhode Island statutes to which it refers. Instead, NERI

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<sup>12</sup> See In Re: Island Hi-Speed Form of Regulation and Review of Rates, Order 17452, Docket No. 3495, at 24 (May 9, 2003); 2003 R.I. PUC LEXIS 44 (finding that while the movants may be interested parties, the nature of their interests did not elevate them to the level of parties in interest.).

<sup>13</sup> NERI Motion, at ¶ 6.

<sup>14</sup> Id. at ¶ 1.

<sup>15</sup> Id. at ¶ 7.



cites to interests such as electric supply diversification, energy security and resilience, stable and reduced energy costs, job creation, and environmental benefit. Even if these are in the public interest, they bear no relevance to whether the PUC should approve the Company's proposed Tariff revisions. These "public interest" issues NERI has raised in its Motion are outside of the scope of this docket, and the impact of allowing NERI to participate in this proceeding as an advocate for the above so-called public interests will undermine the administrative efficiency of the proceeding and, therefore, its Motion should be denied.<sup>16</sup> Furthermore, as noted above, the Division, as the consumer advocate, can adequately represent the public interests in this proceeding.

B. The PUC Should Deny NERI's Late Motion In This Proceeding Because They Did Not Establish Good Cause For The Delay.

Even if NERI has standing to intervene in this proceeding, NERI's motion to intervene should be denied as it was filed untimely and NERI failed to establish good cause for the delay as required by Rule 1.13. As discussed above, NERI did not discuss with National Grid the possibility of seeking late intervention in this docket. National Grid opposes NERI's intervention because it has not established good cause for its delay. Under PUC rules and precedent, the PUC may allow a late intervention where good cause is shown such that a mere technicality will not outweigh equity.<sup>17</sup> In its Motion, however, NERI does not address the fact that its intervention is

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<sup>16</sup> See In Re: Investigation into the Adequacy of the Pawtucket Water Supply Board's Treatment Plant, Order 17515, Docket No. 3452, at 11 (July 21, 2003); 2003 R.I. PUC LEXIS 49 (denying a motion to intervene, finding that the movant's interest as a vendor on the construction of a new water treatment plant was not the subject of the instant docket, and the Division was able to adequately represent the interest of the Pawtucket Water Supply Board's ratepayers.).

<sup>17</sup> See In Re: Verizon, at 21-22. In this docket, the PUC found that it would be inappropriate to reject consideration of the movant, CTC Corporation's arguments regarding a dark fibers issue simply because of the lateness of a request to intervene where the issue had been raised in a parallel proceeding and Verizon should have been aware that the issue would be resurrected by CTC; therefore, there was no prejudice to Verizon. In granting the motion to intervene, the PUC ruled that CTC Corporation "shall be bound by all prior agreements reached and orders entered in this Docket." This ruling is consistent with PUC Rule 1.13(f) governing late interventions.

late, let alone provide justification for such delay. Furthermore, the so-called “public interest” issues to which NERI cites in its Motion, as discussed above, are outside the scope of this docket and too vague to justify good cause for a late intervention.

Not only has NERI failed to offer substantive arguments for why the PUC ought to consider its late intervention, NERI has put forth several “general objections” to the Company’s Tariff Advice filing that seek to expand the scope of this docket through various unrelated requests, including, but not limited to, the inclusion of performance based incentives as outlined in the Power Sector Transformation Report, a requirement for National Grid to partner with Grid Unity or a similar service to automate the bulk of interconnection study efforts, tax liability issues, and inclusion of certain provisions from Docket No. 4483. None of these issues directly relate to the amendments to the DG Interconnection Standards, which is the primary basis for the Company’s compliance filing in this proceeding, or any of the other related Tariff revisions that are before the PUC in this docket.

Allowing NERI to intervene in this docket at this late stage and litigate the above issues is inconsistent with Rule 1.13(f) and would cause undue prejudice and hardship to National Grid and its customers by delaying the proceeding and implementation of the Company’s Tariff, which is intended to comply with the recently enacted legislation.

C. The PUC Should Deny NERI’s Motion Because The Motion Raises Issues Outside the Scope Of The Proceeding.

As discussed above, under PUC precedent, interests that are outside the scope of a docket do not confer standing.<sup>18</sup> The entire premise of NERI’s Motion is based upon interests and issues that have absolutely nothing to do with the proposed Tariff revisions. Simply being an interested party does not make for a party in interest.

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<sup>18</sup> See In Re: Investigation into the Adequacy of the Pawtucket Water Supply Board’s Treatment Plant, at 11.

Even if the PUC were to find that NERI met the criteria for late intervention, NERI should not be allowed to litigate issues that bear no relevance to the docket. Rule 1.13(f) specifically prohibits a movant from broadening the issues in docket where it would cause undue prejudice and hardship to the other party. As noted above, NERI has raised several issues in its Motion and Objection that do not directly relate to the proposed Tariff revisions. The PUC should not allow NERI to litigate issues, such as performance incentive mechanisms, tax liability issues, and its other “general objections” in this docket, which will ultimately delay the proceeding and the implementation of the Tariff.

The Company notes that NERI put forth certain specific comments in its Objection, some of which pertain to certain proposed Tariff revisions in this docket. The Company does not object to those comments being admitted as public comment in the proceeding. In the event that the PUC allows NERI’s late intervention, then NERI should be bound by the established procedural schedule for the submission of comments and testimony in this docket, and National Grid should be allowed to respond to such comments, if warranted, in accordance with that schedule.

#### **IV. CONCLUSION**

In short, NERI filed for late intervention without good cause, and has not specified any interest that will be directly affected by the outcome of this proceeding. This proceeding is a Tariff Advice filing to implement specific amendments to the DG Interconnection Standards, among other revisions. The so-called public policies and other unrelated interests cited by NERI as the basis for its intervention should not be a consideration in this proceeding. The stated interests are too remote and speculative to warrant intervenor status, especially in light of the PUC’s findings in previous cases that the Rhode Island Supreme Court requires cautious application of the criteria for intervention.<sup>19</sup>

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<sup>19</sup> See Narragansett Electric Company, Docket No. 3739, Order No. 18794, at 17.

Accordingly, the Company respectfully requests that the PUC deny NERI's request for intervenor status. Alternatively, if the PUC determines that such intervenor status is consistent with Rule 1.13 and appropriate, then the Company respectfully requests that NERI not be allowed to expand the scope of this proceeding through the introduction of other issues unrelated to the docket, and that the PUC impose certain limitations and/or conditions on such intervention, including, but not limited to, prohibiting the issuance of discovery and the right to appeal the PUC's decision in this docket.

Respectfully submitted,

**The Narragansett Electric Company  
d/b/a National Grid**

By its attorney,



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December 15, 2017