HANDY LAW LLC

42 Weybosset Street | Providence | RI 02903
401 626 4839
401 753 6306 fax

Ms. Margaret Curran
Chair
RI Public Utilities Commission
Providence, RI 02908

September 18, 2018

Re. Docket 4847: Renewable Energy Growth Program Factor and Reconciliation Filing

Dear Chair Curran:

Please accept this public comment in this proceeding. National Grid applies for approval of $1.5 million in administrative expenses and $14 million in cost recovery for the utility's calculation of the difference between what is paid for performance based incentives (including the incentive paid to the Company) and what is recovered for the value of electricity and renewable energy credits produced by enrolled projects. The filing is not transparent regarding the amount of the utility incentive, whether it has been earned according to its statutory conditions, or how it is included in the cost structure for which recovery is sought. Given the new program requirement for competitive bidding, it is not clear why ratepayers are asked to pay for a consultant's development of ceiling prices. Lastly, the Commission's guidance and order from docket 4600 requires that any final assessment of net costs and benefits of the renewable energy growth program must be assessed according to the cost benefit factors laid out in Docket 4600.

1. The Basis for and Level of the Incentive

The final report from the Transforming the Power Sector process offers the following conclusions on the Utility Business Model:

> 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 (p. 16). . . the current regulatory framework does not incent the utility to maximize integration of DER [distributed energy resources], which would reduce customer exposure to increasing wholesale supply costs and also increase the region's energy security (p. 18)

That language from the PST stakeholder process must explain why Rhode Island must pay National Grid an annual incentive to administer a program designed to implement Rhode Island's goals of energy source diversification, improved resilience and reliability, reduced costs, and environmental benefit. Advocates hoped to improve this conflicting business interest in the recent distribution services rate case, Docket 4770, but the result did not displace the utility's return on equity for capital expenses with performance based incentives, and then failed to convince the Commission that most of the proposed performance based incentives were supported with sufficient evidence to provide for just and reasonable rates (the Commission ordered most to be further studied). The supposition that added monetary incentives can transform the utility business model, given decoupling and National Grid's overwhelming financial interests in more capital expenditures on transmission and distribution and its natural gas business interests, is debatable. The broader question is how the utility can best be regulated and directed to ensure that its drivers align with the public interest. Whenever they are not, the public interest suffers.

42 Weybosset Street | Providence | RI 02903
401 626 4839
401 753 6306 fax

The statutory origin of the utility incentive is section 39-26.6-12 and section 39-26.1-4 of Rhode Island's general laws. R.I. Gen. Laws §39-26.6-12(j) states that the utility incentive provisions of Rhode Island's long-term contract program will apply to the renewable energy growth program at a reduced rate (1.75% of contract value rather than 2.75%) and conditioned on two specified performance criteria. The utility incentive provision from the long term contract program pays the utility "financial renumeration and incentives. . .for accepting the financial obligation of long term contracts." The language is:

> **§ 39-26.1-4. Financial remuneration and incentives.**
>
> In order to achieve the purposes of this chapter, electric distribution companies shall be entitled to financial remuneration and incentives for long-term contracts for newly developed renewable energy resources, which are over and above the base rate revenue requirement established in its cost of service for distribution ratemaking. Such remuneration and incentives shall compensate the electric distribution company for accepting the financial obligation of the long-term contracts. The financial remuneration and incentives described in this subsection shall apply only to long-term contracts for newly developed renewable energy resources. The financial remuneration and incentives shall be in the form of annual compensation, equal to two and three quarters percent (2.75%) of the actual annual payments made under the contracts for those projects that are commercially operating.

It may have been reasonable to pay National Grid incentive when the Company administered the Distributed Generation Standard Contract program that, like the Long Term Contract program, required National Grid to put contract liabilities on its books. However, the Renewable Energy Growth Program no longer involves any such contract obligations – National Grid convinced the General Assembly to make it a tariff enrollment program to get rid of its contract accounting problem. The underlying objective of the long-term contract incentive does not apply to any incentive claimed under the Renewable Energy Program.

2. What does Rhode Island get for the payment of the incentive?

Our clients continue to struggle with National Grid's administration of their enrolled projects. National Grid's newly developed (and ratepayer funded) interconnection portal process has been so plagued with problems and delays that developers cannot be confident that National Grid will be able to deliver their interconnection in sufficient time to meet the deadlines for their performance tests required as a condition precedent to REG payments. When asked for assurance that deadlines will be extended for delays caused by National Grid's interconnection process, the Company refuses.

National Grid has claimed that according to the REG tariff, they cannot extend the 24-month deadline for non-residential, medium-scale renewable energy growth projects even if delay results from National Grid's interconnection process and is beyond the applicant's reasonable control. The Company's position on that issue is clearly inconsistent with it filings in PUC Docket 4536A (see links below), and frustrates the purpose of the REG statute.

http://www.ripuc.org/eventsactions/docket/4536A-NGrid-Feb2Summary(3-6-15).pdf
http://www.ripuc.org/eventsactions/docket/4536A-NGrid-Letter_3-11-15.pdf

42 Weybosset Street | Providence | RI 02903
401 626 4839
401 753 6306 fax

While National Grid has been willing to provide a schedule of performance thresholds under which it would commit to completing a timely interconnection, project investors refuse to accept the risk around National Grid's performance on that schedule. The market does not have confidence that National Grid's interconnection portal can function in a timely manner, despite its commitments. Financial institutions also are not comfortable with National Grid's control over project scheduling. The Company's tariffs allow it wiggle room for nonperformance on deadlines but the Company will not accommodate a developer's request for any such lenience. Investors have little appetite for risk. NGrid administers this program in such a way as to put intolerably high risk on the developers. That is inconsistent with the purpose of the Renewable Energy Growth statute and undermines any value of any program incentive proposed to be paid to National Grid.

Under R.I. Gen. Laws §39-26.6-12(j), one of the two conditions upon which National Grid is entitled to its incentive of 1.75% of the value of the performance-based incentive is that

> (2) The electric-distribution company has processed applications for service and completed interconnections in a timely and prudent manner for the projects under this chapter, taking into account factors within the electric-distribution company's reasonable control. The commission is authorized to establish more specific performance standards to implement the provisions of this chapter.

The Company's filing does not evidence that this condition has been met. Our firm's experience indicates that it has not. A second statutory condition for the utility's recovery of its incentive is: "(1) The targets set for the applicable program year for the applicable project classifications were met or, if not met, such failure was due to factors beyond the reasonable control of the electric-distribution company." National Grid's filing also neglects to address whether this condition has been met. According to its September 25, 2017, report filed with the Distributed Generation Board, National Grid reported that only 22 megawatts (22MW) of the 40MW to be developed under the distributed generation standard contract program were in operation and 17MW were cancelled after enrollment. The REG program was to have enrolled 105MW of projects as of that date but only 70MW had been enrolled and only 6MW were operational. National Grid has not demonstrated that the failure to fulfill enrollment targets and get those projects to operation was due to factors beyond the reasonable control of the electric distribution company. The Commission does not have sufficient information to approve payment of any requested incentive.

We are now over four years into the administration of the REG program and National Grid still has not produced an adequately explained and accurate recommendation on the implementation of the legislatures call for zonal incentives per R.I. Gen. Laws §39-26.6-22. National Grid finally investigated locational incentives in 2017. The Company screened that analysis by excluding evaluation of any assets scheduled for upgrade due to their age or condition. How can a legitimate study of cost reduction opportunities exclude consideration of assets needing improvement? That loaded analysis produced its crafted conclusion; that there is no need to implement locational incentives. Meanwhile, National Grid's ISR filing proposed system investments like:

a. **$61M of $108M on asset condition, system capacity & performance** – to address the reliability of the

42 Weybosset Street | Providence | RI 02903
401 626 4839
401 753 6306 fax

network. Investments to address load constraints caused by the existing and growing and/or shifting demands of customers account for $45.8 million, or 42.1 percent of the investment dollars categorized as system capacity and performance

b. ***Newport Substation*** – This project will involve the construction of a new 69/13.8 kV substation and all related distribution line work to develop five new 13.8 kV feeders to provide load relief to the City of Newport. The completion of this project will provide thermal relief to overloaded feeders and supply lines in the City of Newport and improve the overall reliability to Aquidneck Island. The Company proposes to spend $12.2 million on this project in FY 2019.

c. ***Jepson Substation –*** This project will involve rebuilding the existing substation in Middletown, RI (Jepson Substation). The substation rebuild will include two power transformers supplying six 13.8 kV feeders and two power transformers supplying three 23 kV supply lines. The Company proposes to spend $9.3 million on this project in FY 2019.

National Grid's ISR filing failed to apply the Docket 4600 cost benefit analysis to any of its proposed major investments in asset condition, system capacity and performance. Such is the fate of the general assembly's call for the locational incentive; ignored for years, it has now been undermined by a study that excludes cost saving alternatives in favor of capital cost driven return on equity business as usual.

This is the kind of administrative achievement that the payment of annual incentives buys Rhode Island.

3. What does Rhode Island get out of this program's administrative expenses?

Given the requirement that projects now competitively bid for Renewable Energy Growth contracts, there is no good reason to continue funding the Office of Energy Resources consultant to develop a ceiling price for each class of enrollment. The ceiling price serves no purpose as long as developers must compete for a contract; the open market is a sufficient means to dictate the price at which developers can afford to develop their project and sell their commodity. The ceiling price development process has not been adequately responsive to stakeholder comments on its project expense/revenue projections (e.g, it maintains the use of unrealistic production capacity factors) resulting in low participation and inaccurate pricing restrictions. The market is a better judge of market capacity. Money spent on that consultant would be better spent on other energy objectives.

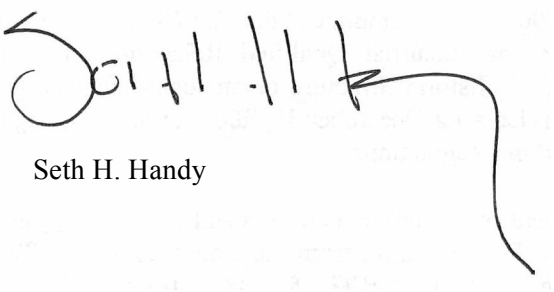
4. Where is the Docket 4600 value analysis for this filing?

Under the Commission's order, any netting of program costs against benefits must include a comprehensive analysis of costs and benefits pursuant to Docket 4600 and the Commission's guidance. Before ratepayers are assessed this highly visible (and antagonistic) charge on every bill for the net cost of implementing the REG program, the Commission should be clear that all benefits of these distributed generation projects are properly accounted for in the utility's analysis. One very tangible benefit that remains left aside is the amount of money these developers invest in improving National Grid's distribution system for the purposes of interconnection. Another is the significant reduction in line loss that otherwise results from transmission of electric energy across long distances. What about the value of the energy security and reliability enhancements resulting from these projects? The value of reduced peak demand in the wholesale market and reduced capacity payments? Have they considered avoided transmission and distribution system investments? All such impacts fundamentally reduce costs for

42 Weybosset Street | Providence | RI 02903
401 626 4839
401 753 6306 fax

customers and warrant assessment before concluding that this program produces net costs to be billed to customers. Even if the renewable energy growth statute does not contemplate proper valuation of such impacts, the Commission's order in docket 4600 warrants hiring a third party consultant to perform such an assessment so that Rhode Island can be clear with ratepayers about the net value of this distributed generation program. Such an analysis, if done properly, can be expected to demonstrate that ratepayers get net positive value from these projects and should not be fooled into thinking they must pay REG enrollees any subsidy.

Sincerely,



Seth H. Handy