STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PUBLIC UTILITIES COMMISSION

Petition of the Episcopal Diocese of Rhode Island for Declaratory Judgment on Transmission System Costs and Related "Affected System Operator" Studies	**Docket No. 4981**

THE EPISCOPAL DIOCESE OF RHODE ISLAND
REPLY TO TNEC'S PUBLIC COMMENT

The Narragansett Electric Company's ("TNEC") public comments filed on January 23, 2020, continue its efforts to confuse this issue and mislead the Commission into accepting its wrongful attempt to extend New England Power Company's ("NEP") authority to delay and tax local distribution system interconnections. NEP is not before the Commission. Nor is the question of what studies NEP must do or costs it must incur or rates it may justify under federal law. Nor is the question of whether NEP can force TNEC to participate in those studies or fund any resulting need for transmission system improvements. The question before the Commission is whether TNEC may impose such transmission system study and cost requirements on local distribution system interconnection customers through provisions of state law and the distribution system interconnection tariff. That is what TNEC wrongly seeks to do. ISO ordered NEP to study transmission system impacts, NEP will recover associated costs from TNEC under federal laws and tariffs, and TNEC, in turn, wrongfully seeks to pass the burden of that study process and associated costs on local distributed generation. Whether TNEC can impose transmission system study and cost obligations on local distribution system customers is a question properly addressed to the Commission's jurisdiction. In order to properly answer it, before allowing the continuing wrongful imposition of federal obligations on state jurisdictional

facilities, the Commission is right to consider both federal and state jurisdiction and requirements for such studies and costs.

The Diocese is wrongfully accused of seeking to evade study delays and costs that are never properly imposed on the Diocese project to start with. TNEC argues that the Commission cannot prohibit TNEC from imposing NEP's pass-through costs on its "retail customers" under federal law. Later it submits that NEP is under no obligation to plan for distributed generation projects and, thus, has not put these projects in the regional system planning process or included them in the Regional System Plan and concludes that, therefore, these are not "public policy upgrades." NEP and TNEC cannot have it both ways, flipping back and forth between federal and state requirements as it serves their interests. If federal law directs NEP and TNEC to study and address transmission system impacts then those studies and the costs of any impacts must be addressed according to ISO and FERC policy, not state law or tariffs. As the Diocese reply brief documents well (and as is not rebutted), the ISO tariff does not justify the imposition of these transmission study delays on the Diocese project. More importantly, the only way in which FERC and ISO cost allocation policy would allow NEP or TNEC to recover costs for upgrades associated with these projects is through proper planning and the cost allocation allowed for public policy upgrades. The fact that neither NEP nor TNEC has followed the planning protocol to properly allocate these costs as public policy upgrades does not mean that they are not public policy upgrades or that federal law sanctions that they may now impose such burdens and costs directly on non-jurisdictional distributed generation projects. TNEC's logic on that is twisted to beget confusion.

TNEC is also wrong that proper compliance with federal policy will lead to "cost trapping" or violate the "filed rate" doctrine.[1] The suggestion that this Diocese petition threatens to interfere with NEP's ability to recover its costs under the "filed rate" doctrine is blatantly baseless – how NEP and TNEC recover transmission rates is up to FERC and the Commission as determined by well-established policy. TNEC's comments point out that NEP recovers its costs from "transmission customers" like TNEC and then argues that "the PUC cannot prevent TNEC from recovering costs from its retail customers." The Commission's legally correct decision to prohibit TNEC from pushing transmission system obligations and costs directly down to distributed generation customers would not at all prevent NEP from recovering transmission system upgrade costs from TNEC per FERC approved ISO tariffs. Nor would it prohibit TNEC from recovering reasonable and approved transmission costs from its retail customers, if and as allowed under federal law and approved Rhode Island rates. NEP can take (and should have long ago taken) the proper steps to recover its costs as public policy improvements. That is the right policy and procedure moving forward. Since such process would cause unjust delay for customers currently under study, as proper recourse, the Commission can and ought to order TNEC to fund and make any required improvements on the schedule dictated by Rhode Island interconnection law and then seek future recovery if/as the Commission and/or FERC deem proper.

Even TNEC itself now seems ready to concede that its attempt to impose transmission system costs directly on distributed generation projects was all along ill-conceived. On page 7 it it retreats: "Narragansett has demonstrated that the relevant state statutes and tariffs provide for

[1] TNEC's claim that the Diocese only rebutted its "cost trapping" and "filed rate" arguments by characterizing them as "egregiously fallacious utility doublespeak" is even more egregiously fallacious. The entire reply brief very clearly refutes such claim and pages 15-19 are dedicated to fully debunking it. The suggestion that this Diocese petition threatens to interfere

passing through these costs to DG customers such as the Diocese. *However, even if the Commission were to conclude otherwise, it must still permit Narragansett to recover these costs from retail customers generally.*" (emphasis added) In fact, TNEC has not at all demonstrated that any statutes or tariffs allow passing transmission system costs directly through to distributed generation customers or rebutted the Diocese argument that they clearly do not. It is time for NEP and TNEC to stop its unauthorized obstruction and for the Commission to allow the Diocese camp project to proceed apace. TNEC's unwarranted and unaffordable delays and economic threats frustrate the interests of state policy and the Diocese resolve to provide for its camp, for religious facilities across the state, and for creation care.

To claim that proper allocation of costs for transmission system studies and improvements will delay the interconnection of distributed generation and frustrate state energy policy is plainly misdirected doubletalk. These system demands were clearly foreseeable and with proper planning would and should have been anticipated and properly accounted for as public policy upgrades. For those responsible for that failing to now claim that its victims threaten to cause more delay and will frustrate the interests of state energy policy unless they patiently await and fund the impact of NEP and TNEC's negligence is continuing obfuscation of NEP and TNEC duties.[2]

TNEC's "cost trapping" threat is also off the mark in its analysis of state law on cost allocation. First, it errs hugely in alleging that Rhode Island's purported silence on whether

[2] At its January 28, 2020, briefing TNEC announced that a 180MW FERC jurisdictional storage project first proposed in October 2019 will now delay completion of the transmission study for the Diocese project until July 2020. This despite ISO's June 21, 2019, presentation indicating that "FERC and non-FERC studies can be completed in parallel" and that "A non-FERC project can obtain I.3.9 approval before a FERC project, regardless of queue position." Neither these study delays nor TNEC's misconceived allocation of transmission costs to distributed generation customers come from ISO. Thus, these are not justifiable, uncontrollable third-party delays per R.I. Gen. Laws §39-26.3-4.1(d).

transmission costs can be imposed on distributed generation does not preclude such assessments. The Rhode Island statute states that "the electric distribution company may only charge an interconnecting, renewable-energy customer for any system modifications to *its electric power system* specifically necessary for and directly related to the interconnection." R.I. Gen. Laws §39-26.3-4.1(a) Despite TNEC's misguided reference to "legislative history,"[3] NEP's transmission system very distinctly and definitely is not part of NEC's "electric power system."[4] It is clear from TNEC's comments that the transmission system is owned by NEP – not by TNEC.

Then, compounding that mistake, TNEC erroneously claims that its original comments illustrated why these costs ought to be passed to distributed generation customers. Upon review, those original comments refer us to the Commission's Order from the Pascoag Utility District Rate Filing in Dockets 3546 and 3580 which held that the Rhode Island cost allocation principle is to "match the cost of the service to the user of service." TNEC Comments at 15, citing Pascoag Utility District General Rate Filing, Docket Nos. 3546 and 3580, Report and Order at 21 (2004). The original comments go on to quote the Commission order as stating that "allocating costs for services, meters and installations on customer's premises on a customer basis is consistent with the principle of cost causality." (Id. citing Pascoag Order at p. 10) In stark contrast to that case, the transmission system improvements at issue here are very far removed from the customer's premises. As was (much more) clearly demonstrated in the Diocese reply brief, that cost causation principle cannot support the imposition of transmission system study or

[3] There actually is no "legislative history" in Rhode Island.

[4] Nor can TNEC justify this ploy for ASO studies and charges through a tariff that was only effective after the Diocese applied for interconnection and according to its amended provisions that clearly conflict with the state law they are obligated to implement.

upgrade costs on local projects that are not interconnecting to the transmission system and do not intend to use it.[5] Instead, the Rhode Island cost causation principle aligns with FERC policy considering such improvements "public policy upgrades" and allocating them 70% to transmission customers taking service under the tariff and 30% to the regional network load of each state. It is an agreed fact that the Diocese is not a "transmission customer taking service under ISO's tariff." There is no cost causation principle that justifies the allocation of federally regulated transmission system costs to locally interconnected and state regulated distributed generation through state law or tariffs or that could rightly sanction ignoring well-established federal cost allocation requirements.

Conclusion

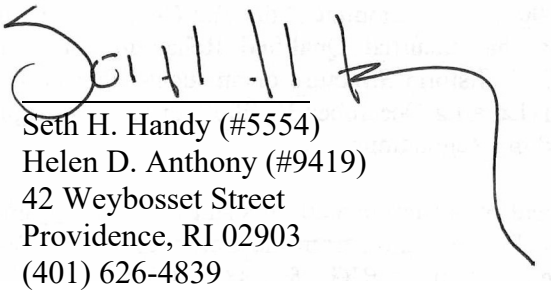
TNEC's continuing effort to sow confusion and launch unfounded threats must not sway the Commission. The interests of federal and state plans, policy and law are too strong to allow for that. The Diocese respectfully asks the Commission to allow its camp project to proceed without awaiting the unjustified delay of these transmission studies and TNEC's unauthorized

[5] TNEC's citations to two U.S. v. PUC cases (120 R.I. 959 and 635 A.2d 1135) are equally unavailing in that they both address cost of service studies upon which rates were based, which are not presented or at issue here. Indeed, if TNEC were to properly apply the cost/benefit analysis mandated from docket 4600, it would find that distributed generation projects greatly reduce load and demands on the transmission system and produce great net benefit, and should be compensated, not charged, for such impact. The proposed charge flies right in the face of the Commission's order in Docket 4600.

allocation of transmission system costs.

THE EPISCOPAL DIOCESE OF RHODE ISLAND
By its attorneys,

HANDY LAW, LLC



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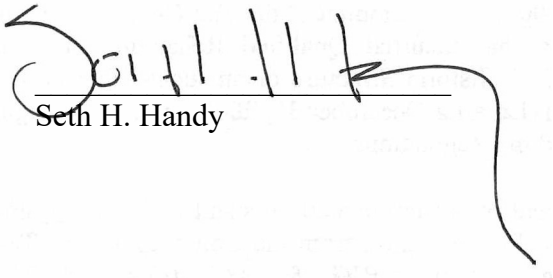
CERTIFICATE OF SERVICE

I hereby certify that on February 7, 2020, I delivered a true copy of the foregoing document to the service list by electronic mail.



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