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November 22, 2019

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

Re: Episcopal Diocese of Rhode Island Petition for Declaratory Judgment – Docket No. 4981

Dear Ms. Massaro:

On behalf of The Narragansett Electric Company d/b/a National Grid (the Company), enclosed is the Company's Petition to Intervene in the above-captioned matter along with the Company's Protest to The Episcopal Diocese's Petition for Declaratory Judgment and accompanying Memorandum of Law. I have also enclosed my notice of appearance on behalf of the Company.

Thank you for your attention to this matter. Please contact me if you have any questions.

Sincerely,

John K. Habib

John K. Habib, Esq.

Enclosures

cc: Docket No. 4981 Service List

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

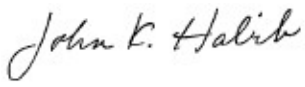
PUBLIC UTILITIES COMMISSION

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

APPEARANCE OF COUNSEL

In the above-entitled proceeding, I hereby appear for and on behalf of The Narragansett Electric Company d/b/a National Grid.

Respectfully submitted,



John K. Habib, Esq. (R.I. Bar #7431)
Keegan Werlin LLP
99 High Street, Suite 2900
Boston, MA 02110
617-951-1400

Dated: November 22, 2019

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PUBLIC UTILITIES COMMISSION

Petition for Declaratory Judgment on Transmission System Costs and Related "Affected System Operator" Studies	)	Docket No. 4981

MOTION TO INTERVENE OF THE NARRAGANSETT ELECTRIC COMPANY

Pursuant to Rule 1.14 of the Rules of Practice and Procedure of the Rhode Island Public Utilities Commission ("PUC" or "Commission"), the Narragansett Electric Company d/b/a National Grid ("Company" or "National Grid") hereby moves for leave to intervene in this proceeding. In support of this motion, National Grid states as follows:

1. Rule 1.14(A) of the PUC Rules states that "[p]articipation in a proceeding as an intervenor may be initiated by order of the Commission upon a motion to intervene."
2. The Company is an electric distribution company as defined by R.I. G.L. §39-1-2(20).
3. On October 9, 2019, the Episcopal Diocese of Rhode Island ("Petitioner"), filed a Petition for Declaratory Judgment with respect to whether the Company may subject the Diocese's proposed renewable energy project that is less than 5MW in generating capacity to a study of transmission system impacts in accordance with the Company's Standards for Connecting Distributed Generation and Rhode Island law.
4. The outcome of this proceeding will directly affect the Company because it will impact how the Company studies proposed interconnection projects and allocates costs for transmission studies and, if necessary, transmission system upgrade costs required by federal law.

5. Said interests of the Company are not adequately represented by existing parties in the proceeding.

6. The Company's participation in this proceeding is in the public interest as the Company provides a unique expertise that will be useful in examining the Petitioner's claims.

Respectfully submitted,

THE NARRAGANSETT ELECTRIC COMPANY d/b/a NATIONAL GRID

John K. Habib

_____

John K. Habib, Esq. (R.I. Bar #7431)
Keegan Werlin LLP
99 High Street, Suite 2900
Boston, MA 02110
617-951-1400

Dated: November 22, 2019

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that an original and (9) copies of the within was mailed to the Commission Clerk for filing, and a true copy of the within was served via electronic mail upon all parties set forth in the below service list on the 22nd day of November 2019.

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

PROTEST OF THE NARRAGANSETT ELECTRIC COMPANY d/b/a NATIONAL GRID TO THE PETITION OF THE EPISCOPAL DIOCESE OF RHODE ISLAND FOR DECLARATORY JUDGMENT

Pursuant to Rule 1.15 of the Rhode Island Public Utilities Commission's Rules of Practice and Procedure and the Commission's Notice to Solicit Comments and Intervention Deadline in the above-captioned matter, National Grid[1] hereby protests the Petition of the Episcopal Diocese of Rhode Island for Declaratory Judgment on Transmission System Costs and Related Affected System Operator Studies (the Petition).

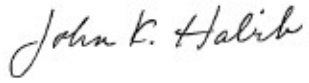
The Petition seeks several far-reaching declarations from the Commission regarding the applicability of, and allocation of costs for, transmission system impact studies and transmission system upgrades for distributed energy generation projects interconnecting to the Company's electric distribution system. As explained further in the accompanying Memorandum of Law, the Petition is fundamentally at odds with ISO-New England tariffs and operating procedures, as approved by the Federal Energy Regulatory Commission ("FERC") and good utility practices to ensure the safety and reliability of the electric distribution and transmission systems in New England. The Petition, if approved, would prohibit the Company from passing on to interconnecting customers costs incurred to interconnect their facilities pursuant to federally-

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

approved tariffs. The arguments advanced in the Petition run counter to well-settled case law prohibiting the trapping of costs incurred pursuant to FERC-approved tariffs and is inconsistent with traditional cost causation principles as well as provisions of Rhode Island law. For these reasons, the Diocese's petition must be denied.

Respectfully submitted,

THE NARRAGANSETT ELECTRIC COMPANY d/b/a NATIONAL GRID



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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

MEMORANDUM OF LAW OF

THE NARRAGANSETT ELECTRIC COMPANY d/b/a NATIONAL GRID

Submitted by:

John K. Habib, Esq.
Keegan Werlin LLP
99 High Street, Suite 2900
Boston, MA 02110

Dated: November 22, 2019

Table of Contents

I. INTRODUCTION

On October 9, 2019, the Episcopal Diocese of Rhode Island (the Diocese) filed a petition for declaratory judgement pursuant to R.I.G.L. § 42-35-8(c) and Rhode Island Public Utilities Commission (Commission) Procedural Rule 1.10(c). The Diocese's petition seeks several far-reaching declarations from the Commission regarding the applicability of, and allocation of costs for, transmission system impact studies and transmission system upgrades for distributed energy generation projects interconnecting to the electric distribution system of The Narragansett Electric Company (Narragansett or the Company). Specifically, the Diocese has asked the Commission to make the following declarations:

1. That transmission system impact study costs may not be assessed to interconnecting distributed generation customers under R.I. Gen. Laws § 39-26.3-4 and 18 CFR § 292.306;
2. That transmission system impact studies may not delay the issuance of an interconnection impact study which must issue within ninety days, without excuse, under R.I. Gen. Laws § 39-26.3-3;
3. That costs of transmission system upgrades are solely the subject of federal jurisdiction and may not be imposed under Narragansett's Standards for Connecting Distributed Generation;
4. That Narragansett may not impose the cost of any required upgrades to New England Power Company's transmission system under Narragansett's Standards for Connecting Distributed Generation per R.I. Gen. Laws § 39-26.3-4.1(a);
5. That Narragansett must apply the Standards for Connecting Distributed Generation in effect at the time of an interconnection application and the tariff in effect when Petitioner applied for interconnection did not authorize transmission system impact studies or the assessment of costs for transmission system upgrades to respond to impacts;
6. That even if the PUC had jurisdiction to authorize New England Power Company to impose the costs of transmission system upgrades on interconnecting customers under the Standards for Connecting Distributed Generation, neither ISO-NE tariff § I.3.9 nor ISO-NE OP5-1[1] nor any other ISO Operating Procedure authorizes Narragansett or New England Power Company to impose transmission system

[1] The Diocese's petition refers to ISO-NE "OP5-1" or Operating Procedure 5-1. However, in a set of documents provided by the Diocese purporting to represent documents cited in the petition, the Diocese instead produced a link to ISO-NE Planning Procedure 5-1, PP5-1. As discussed further below, ISO-NE's Planning Procedures are the operative documents for this issue.

upgrade costs on local distributed generation projects through the Standards for Connecting Distributed Generation;

7. That neither ISO-NE tariff § I.3.9 nor ISO OP5-1 authorize Narragansett or New England Power Company to require transmission studies of interconnecting distributed generation customers proposing less than 5 megawatts of capacity unless and until ISO-NE first finds potential for significant impact to the transmission system and requires a Proposed Plan Application within sixty days of Narragansett's filing of Generator Notification Forms; and
8. That Narragansett may not delay the issuance of an interconnection services agreement or delay the statutory timeline for interconnection due to its own decision to impose transmission studies on customers proposing to interconnect less than 5 MW of generating capacity so that it can then, ultimately, assess unauthorized costs of any required transmission upgrades needed to address those costs on those customers.

The Diocese's petition arises out of interconnection applications it submitted to Narragansett for two proposed solar arrays on the grounds of its Episcopal Conference Center and Camp in Glocester, Rhode Island. See Agreed Facts Petition of the Episcopal Diocese for Declaratory Judgment, ¶ 1 (hereinafter Agreed Facts). In the process of completing the distribution system impact study for the Diocese's proposed 2.2 MW eastern solar array, Narragansett informed the Diocese that the project would require a Transfer Analysis for Transmission Impacts Study to be completed by Narragansett's transmission affiliate, New England Power Company (NEP) pursuant to ISO New England (ISO-NE) requirements. Agreed Facts, ¶ 8.

As the Commission is aware, NEP, under the direction of ISO-NE, is currently undertaking a Rhode Island DG Area Transmission Study involving review of approximately 161 MW of proposed distributed energy generation facilities to assess potential impacts to NEP's transmission system and the systems of other Affected System Operators in the area, including Eversource Transmission, Pascoag Municipal and Block Island Power. ISO-NE required the more rigorous area transmission study after becoming aware of the large number of distributed energy projects proposed in the western Rhode Island area, and noting their potential for cumulative impacts to the transmission system, decided a single transmission study encompassing a number of DG

projects in specific locations was required instead of individual Transfer Analysis for Transmission Impacts Studies for each distributed energy project. The Diocese's project is included in the area transmission study. Similar transmission studies have recently been required throughout the ISO-NE bulk transmission system in locations where the cumulative capacity of distributed energy resources connecting to state-jurisdictional distribution systems are resulting in potential impacts to the transmission system. As addressed further below, these transmission studies are required pursuant to ISO-NE tariffs and planning procedures and are necessary to ensure the safety and reliability of the bulk transmission system as state policies encourage significant growth in the development of distributed energy resources.

The ongoing transmission studies in Rhode Island and other states reflect three realities of today's electric market: (1) state policies to encourage the development of distributed energy resources are resulting in significant growth of new distributed energy resource capacity proposed to be interconnected to distribution systems; (2) distribution and transmission systems, while separately regulated by state and federal agencies respectively, are operationally entwined;[2] and (3) recognizing these facts, ISO-NE has begun applying existing procedures and tariff provisions to require additional review of projects larger than 1 MW to ensure the safe and reliable operation of the bulk transmission system.

Faced with these realities, the Diocese suggests that "this petition is not about whether ISO or National Grid has the right to protect the reliability of its transmission system and prevent reliability problems with the interconnection of distributed generation." Petition at 3. Yet in the same breath, the Diocese challenges whether Narragansett may "subject the Diocese's proposed

[2] See e.g., Transmission Access Policy Study Group v. FERC, 225 F.3d 667, 691 (D.C. Cir. 2000) ("…facilities once used solely for local distribution of bundled retail sales now engage regularly in unbundled wholesale transmissions and retail delivery as well. Thus, while the electricity world once neatly divided into spheres of retail versus wholesale sales, and local distribution versus transmission facilities, such is no longer the case.").

renewable energy project that is less than 5 MW in generating capacity to a study of transmission system impacts for the purpose of determining whether the Diocese project should be further studied and possibly required to contribute toward the cost of transmission system upgrades" and asks the Commission to declare that transmission study costs and transmission system upgrade costs are unauthorized under state law. Petition at 1. These two sentiments are entirely inconsistent. Without a doubt, the Diocese's petition challenges the authority of Narragansett, ISO-NE, NEP and any other Affected System Operator to require review of distributed energy generation projects for transmission system impacts.

As discussed further in the analysis below, the Diocese's petition is fundamentally at odds with ISO-NE tariffs and operating procedures, as approved by the Federal Energy Regulatory Commission (FERC) and good utility practices to ensure the safety and reliability of the electric distribution and transmission systems in New England. Narragansett cannot allow a distributed energy resource to interconnect to its distribution system without first ensuring that the facility will not result in adverse impacts to its distribution system, or the system of any other Affected System Operator, including owners of the New England transmission system needed to provide reliable service to Narragansett's customers. The Diocese's arguments that Narragansett cannot pass on the costs of performing these studies and associated upgrades to retail customers, such as distributed energy resource owners, also run counter to well-settled case law prohibiting the trapping of costs incurred pursuant to FERC-approved tariffs and is inconsistent with traditional cost causation principles as well as provisions of Rhode Island law. For these reasons, the Diocese's petition must be denied.

II. REVIEW OF TRANSMISSION SYSTEM IMPACTS IS REQUIRED BY ISO-NE TARIFFS AND PLANNING PROCEDURES.

A. Section I.3.9 Of The ISO New England Inc. Transmission, Markets, and Services Tariff Ensures Distributed Generation Does Not Adversely Impact the New England Transmission Systems.

The need for transmission review of the Diocese's project is driven by Section I.3.9 of the ISO New England Inc. Transmission, Markets, and Services Tariff (ISO-NE Tariff).[3] The ISO-NE Tariff details the rates, terms and conditions for transmission, market and other services provided by ISO-NE and sets forth the rights and responsibilities of Market Participants, Transmission Owners, and ISO-NE. The ISO-NE Tariff is filed with and approved by FERC. See, e.g. ISO New England Inc., 166 FERC ¶ 61,146, Order Accepting Tariff Revisions (Feb. 25, 2019). The ISO-NE Tariff, together with the ISO-NE Transmission Operating Agreements, help to satisfy FERC requirements for ISO-NE's functions as a Regional Transmission Organization.[4]

Narragansett is subject to the ISO-NE Tariff because it is a Market Participant of ISO-NE taking transmission service under the ISO-NE Tariff.[5] Narragansett has executed a Market Participant Service Agreement governing its rights and responsibilities as a Market Participant at ISO-NE.[6] Pursuant to Section 3.2 of the Market Participant Service Agreement, Narragansett has accepted service under the ISO-NE Tariff and agreed to be bound by its terms. Narragansett's transmission affiliate, NEP, is an ISO-NE Participating Transmission Owner and, pursuant to the ISO-NE Transmission Operating Agreement (TOA), is obligated to operate its system in

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[3] Available at https://www.iso-ne.com/participate/rules-procedures/tariff/

[4] See https://www.iso-ne.com/participate/rules-procedures/tariff/

[5] For a list of Market Participants as maintained by ISO-NE, see https://www.iso-ne.com/participate/participant-asset-listings/directory.

[6] The form Market Participant Service Agreement is available at https://www.iso-ne.com/static-assets/documents/regulatory/tariff/attach_a/att_a_mar_part_serv_agree.pdf.

accordance with that Agreement and the ISO-NE Tariff. Section 3.03(b) of the ISO-NE TOA imposes obligations on NEP or its distribution company affiliate to notify ISO-NE where the interconnection of multiple generators to state-jurisdictional distribution facilities may have cumulative impacts affecting the facilities use for the provision of regional transmission service.

Section I.3.9 of the ISO-NE Tariff obligates Narragansett, either directly as a Market Participant or through its transmission provider (NEP), to submit certain plans for new generating and demand resources to ISO-NE for review to determine whether the resource may have a significant effect on the stability, reliability or operating characteristics of the transmission system, or the system of another Market Participant. Specifically, Section I.3.9.1. provides the following:

> Each Market Participant and Transmission Owner shall submit to the ISO, in such form, manner and detail as the ISO may reasonably prescribe, (i) any new or materially changed plan for additions to or changes to any generating and demand resources or transmission facilities rated 69 kV or above subject to control of such Market Participant or Transmission Owner, and (ii) any new or materially changed plan for any other action to be taken by the Market Participant or Transmission Owner, except for retirements of or reductions in the capacity of a generating resource or a demand resource, which may have a significant effect on the stability, reliability or operating characteristics of the Transmission Owner's transmission facilities, the transmission facilities of another Transmission Owner, or the system of a Market Participant. No significant action (other than preliminary engineering action) leading toward implementation of any such new or changed plan shall be taken earlier than sixty days (or ninety days, if the ISO determines that it requires additional time to consider the plan and so notifies the Market Participant in writing within the sixty days) after the plan has been submitted to the ISO. Unless prior to the expiration of the sixty or ninety days, whichever is applicable, the ISO notifies the Market Participant or Transmission Owner in writing that it has determined that implementation of the plan will have a significant adverse effect upon the reliability or operating characteristics of the Transmission Owner's transmission facilities, the transmission facilities of another Transmission Owner, or the system of a Market Participant, the Market Participant or Transmission Owner shall be free to proceed. The ISO shall maintain on its website a list of such applications that are currently under review and the status of each such application. The ISO shall provide notice of any action taken with respect to any such applications, including an explanation of its reasons for such action, to each Market Participant or Transmission Owner as soon as reasonably practicable after such action is taken. The time limits provided by this section may be changed with respect to any such submission by agreement between the ISO and the Market Participant or Transmission Owner.

In addition, Section I.3.10 requires construction of facilities necessary to avoid adverse impacts of the proposed resource:

> If the ISO notifies a Market Participant pursuant to Section I.3.9.1 that implementation of the Market Participant's or Transmission Owner's plan has been determined to have a significant adverse effect upon the reliability or operating characteristics of the Transmission Owner's transmission facilities, the transmission facilities of another Transmission Owner, or the system of one or more Market Participants, the Market Participant or Transmission Owner shall not proceed to implement such plan unless the Market Participant (or the Non-Market Participant on whose behalf the Market Participant has submitted its plan) or Transmission Owner takes such action or constructs at its expense such facilities as the ISO determines to be reasonably necessary to avoid such adverse effect.

Details concerning ISO-NE's application of the Section I.3.9 process are identified in ISO-NE Planning Procedure No. 5-1 (PP5-1), ISO-NE Planning Procedure No. 5-3 (PP5-3) and ISO-NE Planning Procedure No. 5-6 (PP5-6).[7] PP5-1 explains when submittal of a Generator Notification Form or Proposed Plan Application is required.[8] PP5-3 explains the four levels of analysis (Level 0, Level I, Level II or Level III) that may be conducted for a Proposed Plan Application (PPA). PP5-6 explains the scope of transmission studies conducted to support applications made pursuant to Section I.3.9.

A PPA, when required, includes information about new or increased generation proposals and all related studies necessary for ISO-NE to evaluate the potential for significant adverse impact on the stability, reliability, or operating characteristics of the interconnected system. See PP5-1, at 5, § 1.1.1. ISO-NE is responsible for coordinating the PPA process. Id. at 4, § 1.1.

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[7] Available at https://www.iso-ne.com/participate/rules-procedures/planning-procedures/.

[8] The Diocese incorrectly states that Narragansett and NEP have relied on "ISO OP5-1" as the basis of authority to require transmission studies of distributed generation, referring to ISO-NE *Operating* Procedures. See Petition at 3. Narragansett suspects the reference to "ISO OP5-1" is inadvertent and should refer to ISO-NE PP5-1. Via email dated October 10, 2019, the Diocese's counsel provided web links to documents cited in its petition in which ISO-NE Planning Procedure 5-1 was listed.

PP5-1 includes the following table outlining the PPA requirements for all new generation or changes in station output:

Generation Change[2][3][4]	Proposed Plan Application Required?	Study and Performance Requirements	Modeling Requirements
New or Increased Generation ≥5MW[5]	Yes	Requirements of Planning Procedure 5-6 and 5-3	Requirements of Planning Procedure 5-6
≥ 5 MVAR Unit or ≥ 10 MVAR Station Change in Reactive Capability[6]	Yes	Requirements of Planning Procedure 5-6 and 5-3	Requirements of Planning Procedure 5-6
New or Increased Generation >1MW and < 5 MW	No. Notification Form only is Required – Unless the ISO identifies that a PPA is required	None, unless the ISO identifies that a PPA is required, in which case Requirements of Planning Procedure 5-6 and 5-3	None, unless the ISO identifies that a PPA is required, in which case Requirements of Planning Procedure 5-6
New or Increased Generation ≤1MW	No	None	None

As noted above, new or increased generation of 5 MW or more will always require a PPA. New or increased generation between 1 MW and 5 MW only require a Generation Notification form unless ISO-NE determines that further study and a PPA is required. Beginning around September 2018, however, ISO-NE began to exercise its discretion to require PPAs and further transmission impact study associated with the cumulative impact of distribution-connected generators between 1 MW and 5 MW in certain locations, including Rhode Island. Pursuant to ISO-NE's directive, Narragansett commenced a group transmission study to assess the impact of a number of distributed energy resource projects in Rhode Island, including the Diocese's project, on NEP's transmission system as well as the systems of other potentially Affected Systems.

B. Documents Relied Upon By The Diocese Support Narragansett's Position.

By email dated October 31, 2019, counsel for the Diocese submitted a filing from ISO-NE in FERC Docket No. RM18-9-000 for incorporation in the record in this proceeding. The filing

provided by the Diocese is ISO-NE's response to questions issued by FERC concerning the participation of distributed energy generation in wholesale markets and, specifically, processes related to interconnection of distributed energy generation resources.

In the filing, ISO-NE explains in detail how the Section I.3.9 process applies to distributed energy generation facilities interconnecting to state-jurisdictional distribution systems. ISO-NE explicitly states the following regarding Section I.3.9:

> The Section I.3.9 Process is the long-standing process by which ISO-NE reviews proposed system changes (e.g. transmission or generation additions or modifications) to ensure they do not have a significant adverse impact on the regional power system. Thus, regardless of the jurisdiction for interconnection, proposed system changes to accommodate a DER Generating Facility's interconnection to the system may require review by ISO-NE pursuant to Section I.3.9.

Docket No. RM18-9-000, ISO New England Inc. Response to Letter Dated September 5, 2019, at 5 (October 7, 2019) (emphasis added).[9]

ISO-NE expanded on its explanation of the Section I.3.9 process later in its responses:

> Under Section I.3.9, all new or increased generation interconnections equal to or greater than 5 MW require a Proposed Plan Application supported by the appropriate level of analysis; all new or increased generation interconnections greater than 1 MW, but less than 5 MW require a notification, unless ISO-NE determines the proposed plan will have a cumulative impact on facilities used for the provision of regional transmission service, in which case, a Proposed Plan Application is required.
>
> …
>
> Under Section I.3.9, either the DER developer as a Market Participant, or the Transmission Owner (or its distribution company affiliate) on behalf of a non-Market Participant developer is required to submit the Proposed Plan Application or notification, together with a supporting transmission study led and performed by the Transmission Owner (in coordination with ISO-NE). Once the study is complete, the Transmission Owner (or the Market Participant) is required to present the study results and any required transmission upgrades to the New England Power Pool Reliability Committee for an advisory vote. ISO-NE issues a determination

[9] Available at https://www.iso-ne.com/static-assets/documents/2019/10/rm18-9_resp_to_der_data_req.pdf.

approving or denying the proposed plans after the Reliability Committee's advisory vote.

Id. at 7-8 (emphasis added).

ISO-NE's responses foreclose any doubt about the applicability of Section I.3.9 of the ISO-NE Tariff and ISO-NE's discretion to require transmission studies for proposed distributed generation facilities between 1 MW and 5 MW. The Diocese's allegation that "[t]hese cluster studies are not about reliability requirements; they are presented as a pathway for NEP to justify assessing cost[s] of transmission system upgrades to distributed generation customers" is simply not true. Petition at 3. As explained above, ISO-NE specifically identified the need to study the Diocese's project further based on concerns regarding the potential cumulative impact of distributed generation on the power system in Rhode Island and elsewhere in New England.[10] In ISO-NE's own words, "Section I.3.9 is the long-standing process by which ISO-NE reviews proposed system changes (e.g. transmission or generation additions or modifications) to ensure they do not have a significant adverse impact on the regional power system." Docket No. RM18-9-000, ISO-NE Response at 5. NEP is undertaking the area transmission study as required by the ISO-NE OATT, ISO-NE Planning Procedures, and the TOA.

C. ISO New England Operating Procedure OP-14 Only Applies To Assets Participating In The Wholesale Markets.

Throughout its petition, the Diocese criticizes Narragansett for not citing ISO-NE Operating Procedure OP-14 as the source of authority for the ongoing transmission study. See e.g. Petition at 3-4. The Diocese's criticism is misplaced. Narragansett has, in multiple public forums, regulatory filings and website postings, repeatedly cited Section I.3.9 of the ISO-NE Tariff, PP5-1

[10] Correspondence regarding ISO-NE's determinations have been provided in Narragansett's response to the Commission's Information Request PUC 1-11 in the related docket of Episcopal Diocese of Rhode Island Petition for Dispute Resolution, Docket No. 4973.

PP5-3, and PP5-6 as the operative documents regarding transmission studies of distributed generation facilities interconnecting to state jurisdictional distribution systems.

To be clear, ISO-NE OP-14 describes minimum technical requirements for metering of generation units participating in ISO-NE wholesale markets as either a settlement only generator (SOG) for projects that are less than 5 MWs in size, or as a modeled generator for all projects 5 MWs or larger.[11] ISO-NE OP-14 is separate and distinct from the requirements of Section I.3.9 of the ISO-NE Tariff detailed above, which apply regardless of market participation. The Diocese's arguments about OP-14 are irrelevant.

III. TRANSMISSION STUDY AND SYSTEM UPGRADE COSTS CAUSED BY DISTRIBUTED GENERATORS ARE APPROPRIATELY RECOVERED FROM SUCH CUSTOMERS.

A. The Filed Rate Doctrine Prohibits The Commission From Trapping FERC-Approved Costs.

The Diocese has argued that its petition "does not raise a question that is beyond the Commission's jurisdiction for decision" because the question for the Commission is limited to whether costs associated with transmission studies and/or transmission system upgrades can be charged to distributed generation customers interconnecting to Narragansett's distribution system. Petition at 3. The Diocese asks the Commission to declare that even though ISO-NE requires Narragansett, through its transmission affiliate, NEP, to study the Diocese's project for potential transmission system impacts and to construct any necessary system upgrades, Narragansett cannot charge the Diocese for those costs. The Diocese has not offered any legal analysis in support of its request. In fact, the Diocese's position is prohibited under the filed rate doctrine.

[11] See ISO New England Operating Procedure OP-14 – Technical Requirements for Generators, Demand Response Resources, Asset Related Demands and Alternative Technology Regulation Resources, Section I.A.1., available at https://www.iso-ne.com/static-assets/documents/rules_proceds/operating/isone/op14/op14_rto_final.pdf.

At the outset, the Diocese's arguments seems to be based on a fundamental misunderstanding of how the costs of any studies and upgrades to the transmission system would be allocated and recovered. Such costs would be incurred in the first instance by the applicable ISO-NE Transmission Owners and Market Participants in accordance with Section I.3.10 of the ISO-NE Tariff. In the case of the Rhode Island transmission studies, the costs of these studies and any applicable transmission system upgrades will be allocated to Narragansett pursuant to the ISO-NE Tariff. As the Diocese correctly recognizes, this allocation mechanism is solely subject to FERC jurisdiction, and therefore outside the scope of this proceeding. However, this does not preclude Narragansett from passing through and recovering such costs through retail rate mechanisms, such as Rhode Island's interconnection tariff. Indeed, long-standing precedent is clear that a state cannot prohibit such recovery.

Under Parts II and III of the Federal Power Act (FPA), the rates and services for electric transmission in interstate commerce and electric wholesale power sales in interstate commerce are the exclusive jurisdiction of the FERC. New York v. FERC, 535 U.S. 1, 122 S.Ct. 1012, (2002). Pursuant to the filed rate doctrine, rates filed with or fixed by FERC must be given binding effect by state utility commissions determining intrastate rates. Entergy Louisiana, Inc. v. Louisiana Public Service Commission et al., 539 U.S. 39, 47 123 S.Ct. 2050, 2056 (2003); Nantahala Power & Light Co. v. Thornburg, 476 U.S. 953, 962, 106 S.Ct. 2349 (1986). "When the filed rate doctrine applies to state regulators, it does so as a matter of federal pre-emption through the Supremacy Clause." Entergy Louisiana, 539 U.S., at 47.

"Moreover, the filed rate doctrine is not limited to 'rates' *per se*." Nantahala, 476 U.S., at 966. The FERC regards any contract, agreement, or tariff that sets forth the rates, terms, or conditions for wholesale power sales or transmission service by a public utility or that allocates

wholesale power costs to be jurisdictional. Nantahala, 476 U.S., at 965. The ISO-NE Tariff is filed with and approved by FERC. See, e.g. ISO New England Inc., 166 FERC ¶ 61,146, Order Accepting Tariff Revisions (Feb. 25, 2019).

Applying the filed rate doctrine, the Supreme Court has held that state regulators are barred from setting rates that would have the effect of trapping costs by categorically excluding costs under a FERC tariff from recovery through retail rates. Entergy Louisiana, 539 U.S., at 39; Nantahala, 476 U.S., at 968, 970. "When FERC sets a rate between a seller of power and a wholesaler-as-buyer, a State may not exercise its undoubted jurisdiction over retail sales to prevent the wholesaler-as-seller from recovering the costs of paying the FERC-approved rate. Such a 'trapping' of costs is prohibited." Nantahala, 476 U.S., at 970. "States may not bar regulated utilities from passing through to retail customers FERC-mandated wholesale rates." Mississippi Power & Light Co. v. Mississippi ex rel. Moore, 487 U.S. 354, 372, 108 S.Ct. 2428, 2439 (1988).

As background, in Nantahala, Nantahala Power & Light Company and Tapoco, Inc., both wholly owned subsidiaries of the Aluminum Company of America (Alcoa), owned several hydroelectric powerplants in the Tennessee Valley Authority (TVA) service territory. Nantahala, 476 U.S., at 955. Under a series of agreements between those three parties, TVA operated all of Tapoco's facilities and 8 of the 11 facilities owned by Nantahala. Id. In exchange, Tapoco and Nantahala jointly received a fixed supply of low-cost "entitlement power" from TVA. Id. The agreement supporting this arrangement was on file with FERC as a rate schedule. Id. Under a separate Apportionment Agreement, 80% of this low-cost entitlement power was allocated to Tapoco, while 20% was allocated to Nantahala. Id. at 956. Tapoco sold this entitlement power to Alcoa, while Nantahala served wholesale and retail customers. Id. Nantahala purchased the remaining power needed to serve its retail customers from TVA at higher costs. Id.

FERC approved the Apportionment Agreement with a slight modification to increase Nantahala's share of entitlement power to 22.5% to better align with the relative portion of hydroelectric generation produced by Nantahala's facilities as compared to Tapoco's. Id. at 958. In a subsequent proceeding of the North Carolina Utilities Commission (NCUC) to set retail rates for Nantahala's retail customers, the NCUC's calculation assumed a higher allocation of 24.5%. Id. at 960-961. Because purchased power is more expensive than entitlement power, NCUC's order prevented Nantahala from recovering the full costs of acquiring power under the FERC-approved Apportionment Agreement and related agreements. Id. at 970-971.

The North Carolina Supreme Court approved the NCUC's decision, finding that it was "well within the field of exclusive state rate making authority engendered by the 'bright line' between state and federal regulatory jurisdiction under the Federal Power Act" because it did not require modification of the agreements approved by FERC or the actual flow of power pursuant to those agreements. Nantahala, 476 U.S., at 961, citing State ex rel. Utilities Comm'n. v. Nantahala Power & Light Co., 313 N.C. 614, 687688 (1985). The United States Supreme Court reversed, finding that even though the NCUC was exercising its jurisdiction in setting retail rates, "that does not give it license to ignore the limitations that FERC has placed upon Nantahala's available sources of low-cost power." Id. at 970. Thus, the Court held that the filed rate doctrine ensures that utilities can recover costs incurred pursuant to FERC set rates and preventing such recovery when setting retail rates is a prohibited trapping of costs. Id.

The Diocese's petition asks the Commission to do exactly what was prohibited by Nantahala, Mississippi Power & Light, Entergy Louisiana, and many other cases under the filed rate doctrine by declaring that transmission study costs and the costs of transmission system upgrades incurred by Narragansett pursuant to FERC-approved tariffs cannot be recovered from

retail distributed generation customers. The Diocese acknowledges in its petition that "transmission system upgrade costs are the subject of federal, not state, jurisdiction…" Petition at 1. What the Diocese fails to recognize is that the United States Supreme Court long ago held that "[t]he reasonableness of rates and agreements regulated by FERC may not be collaterally attacked in state or federal courts." Mississippi Power & Light, 487 U.S., at 375. Applying federal case law regarding the filed rate doctrine and trapped costs to the interconnection issues at hand, the Commission must allow Narragansett to pass through transmission study costs and any necessary transmission upgrade costs incurred in compliance with the ISO-NE Tariff on to Narragansett customers, in this case the interconnecting customer causing those costs.

B. Passing Transmission Study and Upgrade Costs Through To Distribution Interconnecting Generators Is Consistent With Traditional Cost Causation Principals.

As a general principle, Rhode Island has recognized that rates should reflect the cost of service, unless other factors dictate a departure from cost-of-service rate design. United States v. Pub. Utilities Comm'n, 120 R.I. 959, 968 (1978); United States v. Pub. Utilities Comm'n, 635 A.2d 1135 (R.I. 1993). The Commission has also recognized that its goal when allocating costs is to "match the cost of service to the user of the service." Pascoag Utility District General Rate Filing, Docket Nos. 3546 and 3580, Report and Order at 21 (2004). Moreover, allocating costs for services, meters and installations on customers' premises on a customer basis is consistent with the principle of cost causality. Id. at 10.

The Commission has applied the traditional cost-causation principles in the context of distributed generation interconnection. In Docket No. 4483, the Company proposed revisions to Section 5.3 of the DG Interconnection Tariff to provide that interconnecting customers may obtain a refund of system modification costs that benefit subsequent interconnecting customers within

five years from the effective date of the prior interconnecting customer's interconnection service agreement. Petition of Wind Energy Development, LLC, Docket No. 4483, at 30 (2017). Petitioner Wind Energy Development, LLC objected to the language, arguing that the revision "disregards the central question of whether distributed generation should be required to fund system upgrades that are necessary to provide satisfactory customer service which benefit system capacity…" Id. at 31. The Commission rejected Wind Energy Development, LLC's argument, finding that "the distributed generation interconnection process should balance the State's policy to encourage renewable distributed generation with the need to ensure a safe and reliable electric distribution system." Id. at 32.

In approving the proposed tariff revision in Docket No. 4483, the Commission favorably relied on the testimony of Gregory L. Booth, P.E. submitted on behalf of The Division of Public Utilities and Carriers (Division). Mr. Booth opined that system modifications in the context of DG interconnection only occur because of the generator, and, as a result, the generator should be solely responsible for all incremental system modification costs. Docket No. 4483, at 32. Mr. Booth further stated that it would be "imprudent and unreasonable to shift these costs to a retail customer that was receiving reliable service prior to the generator interconnection." Id.

The same principles hold true when considering how to appropriately pass through and recover transmission study costs and the costs of transmission system modifications that would not be incurred absent the interconnecting generator. The transmission studies required by ISO-NE pursuant to Section I.3.9 of the ISO-NE Tariff are being driven entirely as a result of requests to interconnect distributed energy resources to Narragansett's system. As such, it is entirely appropriate for Narragansett to recover the costs of those studies, and the costs associated with any

resulting system modifications necessary to safely interconnect such generation, from the interconnecting generators causing these costs.

C. The Commission Has Already Approved Tariff Provisions To Pass Through Transmission Study Costs and Transmission System Upgrades to Distributed Generators.

1. Applicable tariff provisions were approved in Docket No. 4763.

Following amendments to the Distributed Generation Interconnection Standards, R.I. Gen. Laws § 39-26.3-4.1, effective July 1, 2017, Narragansett submitted proposed revisions to RIPUC 2163, Standards for Connecting Distributed Generation (DG Interconnection Tariff). See Standards for Connecting Distributed Generation, Docket No. 4763, Report and Order at 1 (2019). Following a Technical Session, discovery, comments and a hearing, the Commission approved the changes in the revised DG Interconnection Tariff, RIPUC 2180, with modifications that required additional notifications to interconnecting customers of delays, reporting of certain information to the Commission, and a final accounting of interconnection costs within the tariff. Id. at 2. Subject to those compliance revisions, the Commission approved RIPUC 2180 for effect September 6, 2018.

Included in the revisions approved by the Commission is a modification to the Standard Process language in Section 3.4. Part (c) of the Standard Process already contained language in the prior version, RIPUC 2163, providing that:

> Where there are other potentially Affected Systems, and no single Party is in a position to prepare an Impact Study covering all potentially Affected Systems, the Company will coordinate but not be responsible for the timing of any studies required to determine the impact of the interconnection request on other potentially Affected Systems. The Interconnecting Customer will be directly responsible to the potentially Affected System operators for all costs of any additional studies required to evaluate the impact of the interconnection on the potentially Affected Systems.

The revisions, as approved by the Commission, added the following clause immediately following the above text:[12]

> provided, however, the Company may, in its sole discretion, elect to include the additional Affected System study costs in the Company's cost estimates, in which case the Company will detail the separate Affected System study costs, and the Interconnecting Customer will pay such costs to the Company (and will be responsible for any and all actual costs thereof).

Under both versions of this section, the Interconnecting Customer is responsible to the Affected System operators for all Affected System study costs. The revisions simply give the Company the option to collect those costs in its agreements in lieu of the Interconnecting Customer and the Affected System Operators having to enter into separate agreements to collect those costs.

In Section 5.4 of the Tariff and Exhibit H, the form Interconnection Service Agreement, provisions were added to provide that interconnecting customers are responsible to any Affected System operator for the costs of system modifications necessary to the Affected Systems. See Docket No. 4763, National Grid Tariff Advice Filing at 3; see also RIPUC 2180, Sheet 41, Section 5.4. Section 5.4, as revised, provides that "Interconnecting Customers shall be directly responsible to any Affected System operator for the costs of any system modifications necessary to the Affected Systems." RIPUC 2180, Sheet 41. The same text was added to Section 5, General Payment Terms, of Exhibit H, Interconnection Service Agreement. Id. at Sheet 83.

Both sets of revisions were approved over the objection of New Energy Rhode Island. See Standards for Connecting Distributed Generation, Docket No. 4763, New Energy Rhode Island Objection (December 5, 2017). In fact, New Energy Rhode Island recommended that "[a]ll references to ISO jurisdiction and rules should be removed," arguing that "[t]hey are merely a scare tactic and have to do with an entirely separate regulatory process that is subject to its own

[12] Corresponding revisions were made to Exhibit F, Impact Study or ISRDG Agreement and Exhibit G, Detailed Study Agreement. See RIPUC 2180 at Sheet 77, 80.

interpretation, rulemaking and contests." Id. at 6. Regarding revisions to Section 5.4, New Energy Rhode Island recommended that all references to Affected Systems be removed, on the basis that Narragansett should only be permitted to charge customers for system modifications to its own distribution system, not that of any third parties. Id. at 7, 11. New Energy Rhode Island went on to argue that "the Commission should clearly determine the basis upon which National Grid could legally bill interconnecting renewable energy customers for upgrades made to any elements of the transmission system. Our understanding is that this pertains to the removal of the proposed tariff clauses related to 'Affected Systems.'" Id. at 12.

The Commission approved the revisions to the DG Interconnection Tariff over the objections of New Energy Rhode Island. Thus, the currently effective DG Interconnection Tariff already provides clear authority for Narragansett to recover from interconnecting customers the costs that it incurs associated with transmission studies and any necessary transmission system modifications caused by such customers.

Moreover, it is important to note that the DG Interconnection Tariff does not need to expressly identify every third-party cost for which an interconnecting customer is required to pay in order to interconnect its project. Silence on the manner of collecting any particular cost should not be construed as a determination by the Commission that such costs were intended to be subsidized by parties other than the interconnecting customer causing the cost. As is the case for *all* Affected System operator system impacts and costs, the requirements for completing studies and paying for all necessary system modifications to safely interconnect a proposed project exist independently of the DG Interconnection Tariff.

As detailed above, the ISO-NE Tariff provides that where transmission impacts are identified, the proposed new generation cannot be interconnected "unless the Market Participant

(**or the Non-Market Participant on whose behalf the Market Participant has submitted its plan**) or Transmission Owner takes such action or **constructs at its expense such facilities as the ISO determines to be reasonably necessary to avoid such adverse effect.** ISO-NE Tariff, Section I.3.10 (emphasis added). As such, whether the DG Interconnection Tariff explicitly sets forth the terms by which a customer will pay for transmission system modifications is not relevant to a determination that the customer causing such impacts must pay for the facilities necessary to mitigation those impacts before it may interconnect its facility.

2. The Diocese does not have a vested right to the prior DG Interconnection Tariff.

Without providing any legal analysis to support its position, the Diocese asks the Commission to declare that Narragansett must apply the DG Interconnection Tariff in effect at the time it submitted an interconnection application. Petition at 2. The DG Interconnection Tariff was revised during the pendency of the Diocese's interconnection application. Nevertheless, Narragansett has not identified any precedent indicating that the Diocese is entitled to the terms of the prior DG Interconnection Tariff going forward.

To the contrary, courts have held that customers do not have any vested rights to public utility tariffs. See e.g. Wright v. Cent. Kentucky Nat. Gas Co., 297 U.S. 537, 542, 56 S. Ct. 578 (1936); Sw. Bell Tel. Co. v. Pub. Util. Comm'n of Texas, 615 S.W.2d 947, 957 (Tex. Civ. App. 1981) ("no person can have a vested right in any rate other than the last legal or official rate promulgated by the Commission."); State ex rel. Jackson Cty. v. Pub. Serv. Comm'n, 532 S.W.2d 20, 31 (Mo. 1975) ("utility customers have no vested rights in any fixed utility rates.") (collecting cases). This conclusion makes sense because upon approval of a revised tariff, the prior version is canceled. Thus, when the Commission approved RIPUC 2180, it replaced and canceled RIPUC

2163. All actions related to interconnection of distributed generation from September 6, 2018 forward must be conducted in accordance with the currently effective tariff, RIPUC 2180.

There are two issues at play here: (1) terms related to impact study fees; and (2) terms related to payment for system modifications. As to impact study fees, the Diocese applied for Impact Studies for its projects and paid the required fees on June 8, 2018. Agreed Facts, ¶ 5. Since this occurred prior to the effective date of RIPUC 2180 of September 6, 2018, the Impact Study or ISRDG Agreement executed by the Diocese included language pertaining to Affected System operator studies as reflected in RIPUC 2163. As noted above, that language still requires the Diocese to be "directly responsible to the potentially Affected System operators for all costs of any additional studies required to evaluate the impact of the interconnection on the potentially Affected Systems." Revisions contained in RIPUC 2180 simply allow Narragansett to collect such fees on behalf of the Affected System operator, which reflects the actual practice in most cases of Affected System studies. Regardless of which DG Interconnection Tariff provisions apply, the Diocese is responsible for the transmission study costs.

Regarding any transmission system modifications that may be required to interconnect the Diocese's projects, no determination of those costs has been made at this time. Nor has the Diocese executed an Interconnection Service Agreement for its project(s). When it does, the current version of Exhibit H, Interconnection Service Agreement, will apply and the Diocese will be required to pay for "the costs of any system modifications necessary to the Affected Systems." RIPUC 2180, Sheets 41, 83.[13]

[13] Even under the predecessor tariff, RIPUC 2163, Interconnecting Customers are "responsible for all costs reasonably incurred by Company attributable to the proposed interconnection project in designing, constructing, operating and maintaining the System Modifications." RIPUC 2163, Section 5.3. Such costs reasonably include necessary transmission system upgrades to interconnect the project.

3. In the alternative, costs may be recovered from all customers under the Transmission Service Cost Adjustment Provision.

If the Commission were to determine that Narragansett cannot charge Interconnecting Customers, including the Diocese, for the costs of transmission studies or transmission system upgrades through the DG Interconnection Tariff, those costs would instead be recovered from all distribution customers under the Transmission Service Cost Adjustment Provision. The Transmission Service Cost Adjustment Provision, RIPUC No. 2198, serves to:

> Recover from customers transmission costs billed to [Narragansett] by entities such as New England Power Company, by any other transmission provider, and by regional transmission group, or any other entity that is authorized to bill Narragansett directly for transmission services.

RIPUC No. 2198, Sheet 1.

The Transmission Service Cost Adjustment (TCA) is, however, allocated across all distribution customers. Id. Recovering transmission costs incurred only for the purpose of interconnecting distributed generation facilities through the TCA is not consistent with the Commission's traditional cost causation principles, as opposed to recovering such costs directly from the responsible Interconnecting Customers.

IV. RHODE ISLAND LAW DOES NOT PROHIBIT ASSESSMENT OF TRANSMISSION STUDY OR TRANSMISSION UPGRADE COSTS.

A. R.I. Gen. Laws § 39-26.3-4.

Without providing any analysis, the Diocese asks the Commission to declare that "transmission study costs may not be assessed to interconnecting distributed generation customers under R.I. Gen. Laws § 39-26.3-4. R.I. Gen. Laws § 39-26.3-4.1(a) 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." The terms "system modifications" and "electric power system" are not defined in Chapter 39-26.3.

Under well-settled principles of statutory interpretation, when the language of a statute is clear and unambiguous, the statute must be interpreted literally with the words of the statute given their plain and ordinary meaning. Progressive Cas. Ins. Co. v. Dias, 151 A.3d 308, 311 (R.I. 2017); In re Proposed Town of New Shoreham Project, 25 A.3d 482, 504 (R.I. 2011). The ultimate goal is to give the effect to the purpose of the act as intended by the legislature. Id. In addition, "[i]t is an equally fundamental maxim of statutory construction that statutory language should not be viewed in isolation." In re Brown, 903 A.2d 147, 149 (R.I. 2006). The entire statute must be read as a whole, and individual sections must be considered in the context of the entire statutory scheme. Id.

The plain language of Section 39-26.3-4.1(a) indicates that interconnecting customers should only be charged for system modifications to the distribution company's electric power system that are "specifically necessary for and directly related to the interconnection." Thus, this section prohibits a distribution company from charging a customer for system modifications that are not "specifically necessary for and directly related to" the customer's proposed interconnection. Section 39-26.3-4.1(a) is completely silent regarding system modifications to transmission facilities or other affected systems.

Importantly, other provisions of Chapter 26.3 recognize that additional impacts beyond the distribution company's electric power system may need to be considered. Section 39-26.3-4.1(d), for instance, notes that system modification deadlines will be extended for "delays due to ISO-NE requirements not attributable to electric distribution company actions."

Reading Chapter 26.3 in its entirety as required, it is unreasonable to interpret Section 39-26.3-4.1(a) as prohibiting the Company from recovering from interconnecting customers costs that the Company incurs for transmission studies and transmission system modifications that are required by ISO-NE tariffs under the exclusive jurisdiction of FERC. Such charges are specifically necessary and directly related to the interconnection of distributed generation resources greater than 1 MW pursuant to the ISO-NE Tariff and related Planning Procedures. Moreover, the Commission should not interpret Chapter 26.3 in a manner that would conflict with the preemptive effect of the filed rate doctrine, discussed above.

This concept has already been accepted by the Commission. As discussed above, following amendments to the Distributed Generation Interconnection Standards, R.I. Gen. Laws § 39-26.3-4.1, effective July 1, 2017, Narragansett submitted proposed revisions to the DG Interconnection Tariff. See Standards for Connecting Distributed Generation, Docket No. 4763, Report and Order at 1 (2019). In that docket, the Commission approved an addition to Section 5.4 of the Tariff providing that "Interconnecting Customers shall be directly responsible to any Affected System operator for the costs of any system modifications necessary to the Affected Systems." Commission approval of that language does not support an argument that transmission system upgrade costs are barred by § 39-26.3-4(a). Nor do the numerous other references in the DG Tariff to Affected System operators, which must be considered when safely interconnecting distributed generation facilities.

B. 18 C.F.R. § 292.306.

The Diocese also suggests that transmission system impact study costs may not be assessed to interconnecting distributed generation customers under 18 C.F.R. § 292.306. Petition at 8. Again, the Diocese has not provided any analysis to support its statement.

The Diocese's reliance on 18 C.F.R. § 292.306 is odd because it allows for qualifying facilities to be charged for transmission-related costs. Section 292.306 provides that "each qualifying facility shall be obligated to pay any interconnection costs which the State regulatory authority (with respect to any electric utility over which it has ratemaking authority) or nonregulated electric utility may assess against the qualifying facility on a nondiscriminatory basis with respect to other customers with similar load characteristics." 18 C.F.R. § 292.306. "Interconnection costs" are defined broadly to include transmission costs:

> Interconnection costs means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent such costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.

18 C.F.R. § 292.101(b)(7) (emphasis added). Accordingly, the Diocese's reliance on 18 C.F.R. § 292.306 is not helpful to its position.

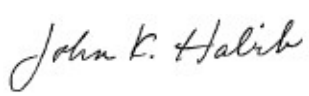
V. CONCLUSION

With only limited legal analysis in support of its Petition, the Diocese asks this Commission to make a sweeping declaration that transmission system impact studies and resulting system modification costs cannot be charged to the interconnecting customer causing those costs. As discussed in detail above, the Diocese's request: (1) violates the Supremacy Clause and filed rate doctrine, which has been interpreted to prohibit the trapping of costs incurred pursuant to federally-approved tariffs; (2) is inconsistent with traditional principles of cost-causation that have already been approved by the Commission in the context of interconnection costs; and (3) is not supported

by the existing terms of the DG Interconnection Tariff, Rhode Island law, or federal regulation. For those reasons, the Diocese's Petition should be denied.

Respectfully submitted,

THE NARRAGANSETT ELECTRIC COMPANY d/b/a NATIONAL GRID



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Docket No. 4981 - Episcopal Diocese of RI – Petition for Declaratory Judgment on Transmission System Costs and Related "Affected System Operator" Studies
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