

December 18, 2020

**VIA ELECTRONIC MAIL**

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

**RE: Docket 5088 – 2021 Renewable Energy Growth Program Tariff and Rule Changes  
Objection to Motion to Intervene by Green Development, LLC**

Dear Ms. Massaro:

On behalf of National Grid,<sup>1</sup> enclosed please find an electronic version<sup>2</sup> of the Company's Objection to the Motion to Intervene by Green Development, LLC.

Thank you for your attention to this matter. If you have any questions, please contact me at 781-907-2126.

Very truly yours,



Laura C. Bickel

Enclosures

cc: Docket 5088 Service List  
Leo Wold, Esq.  
Jon Hagopian, Esq.  
John Bell, Division

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<sup>1</sup> The Narragansett Electric Company d/b/a National Grid (National Grid or the Company).

<sup>2</sup> Pursuant to the Rhode Island Public Utilities Commission's guidance concerning the COVID-19 emergency period, National Grid is submitting an electronic version of this filing followed by an original and five hard copies filed with the Clerk within 24 hours of the electronic filing. Given this filing is on a Friday, the hard copies will be submitted on Monday, December 21, 2020.

**Docket No. 5088 – Renewable Energy Growth Program for Year  
2021 RI Distributed Generation Board and National Grid  
Service List updated 11/13/2020**

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**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**  
**PUBLIC UTILITIES COMMISSION**

	)	
In re: 2021 Renewable Energy Growth	)	
Program – Classes Ceiling Prices, and	)	Docket No. 5088
Capacity Targets and 2021 Renewable	)	
Energy Growth Program – Tariffs and	)	
Solicitation and Enrollment Process Rules	)	
	)	

**OBJECTION OF THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID TO THE MOTION TO INTERVENE BY GREEN DEVELOPMENT, LLC**

The Narragansett Electric Company d/b/a National Grid (the Company or National Grid), pursuant to the Public Utilities Commission’s (PUC) Rules of Practice and Procedure, Rule 810-RICR-00-00-1.14(E) (Rule 1.14(E)), hereby objects to the Motion to Intervene by Green Development, LLC (Green Development), which was filed on December 10, 2020, in the above-captioned matter (the Motion).<sup>1</sup> The PUC should deny the Motion because it fails to state a sufficient basis for Green Development to intervene in this matter.

**I. LEGAL STANDARD**

Rule 1.14 of the PUC’s Rules of Practice and Procedure sets forth the basis for intervention in PUC proceedings. To intervene in a proceeding before the PUC, Rule 1.14(B) provides that the moving party must demonstrate one of the following rights to intervene or an interest of such nature that intervention is necessary:

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

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<sup>1</sup> Green Development’s Motion incorrectly cites to Rule 1.13 of the PUC’s Rules of Practice and Procedure as the basis for its request for intervention. National Grid assumes that Green Development intended to refer to Rule 1.14.

an interest: consumers served by the applicant, defendant, or respondent, holders of securities of the applicant, defendant, or respondent.)

3. Any other interest of such nature that movant's participation may be in the public interest.

The PUC is cautious in granting intervention and will ensure that a movant actually meets one of the three criteria established in PUC Rule 1.14(B). See Narragansett Electric Company d/b/a National Grid Proposed Standard Offer Service Rate Reduction, Docket No. 3739, Order No. 18794 at 12 (2006) (citing In Re Hi-Speed Ferry, LLC, 746 A.2d 1240, 1245-46 (R.I. 2000) (Rhode Island Supreme Court found "the wisdom and appropriateness of the intervention in this case was questionable"))).

## **II. DISCUSSION**

### **A. Green Development Does Not Have A Right Of Intervention In This Docket.**

Green Development should be denied intervention in this proceeding because it does not meet the PUC's criteria to do so. In particular, Green Development (1) has not demonstrated a statutory right to intervention; (2) has not demonstrated 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 PUC's action in the proceeding; and (3) has not demonstrated that its participation is in the public interest.

This proceeding concerns (1) the recommendations of the Distributed-Generation Board (DG Board) for the 2021 Renewable Energy Growth (RE Growth) Program Year in accordance with R.I. Gen. Laws § 39-26.6-4(a)(1), which authorizes the DG Board to make recommendations to the PUC regarding ceiling prices and annual targets, the make-up of renewable energy classifications eligible under the distributed generation growth program, and the terms of associated tariffs; and (2) National Grid's proposed changes to its RE Growth tariffs and enrollment rules for the 2021 RE Growth Program Year.

Green Development's Motion states that it seeks to intervene so that it can argue that the ceiling prices proposed by the DG Board under R.I. Gen. Laws § 39-26.6-3(2) do not properly account for the change in value of federal tax incentives and the assessment of certain transmission carrying charges, known as Direct Assignment Facility (DAF) charges, in distributed generation interconnection projects requiring transmission upgrades. Motion at 1-2. Green Development argues that, if permitted to intervene, it "will advocate for positions that are consistent with the public interest as put forth in many Rhode Island statutes and public policies and as are manifest in Green's specific projects..." Motion at 2. Without further explanation, Green Development states that these interests are not currently represented in the proceeding. Id.

First, Green Development's Motion does not identify any statutory right to intervene in this proceeding. Indeed, Chapter 39-26.6 provides no statutory right of intervention for customers or proponents of potential RE Growth projects.

Lacking any statutory right to intervention, Green Development must demonstrate the second or third criteria to intervene – that it has an interest which may be directly affected, and which is not adequately represented by existing parties; or that its participation is otherwise in the public interest. Green Development has the burden to "set out clearly and concisely facts from which the nature of the movant's alleged right or interest can be determined . . ." PUC Rule 1.14 (C). Green Development's Motion has not satisfied that burden.

Green Development's Motion expresses concern over the DG Board's proposed RE Growth ceiling prices for 2021, stating that "[t]he failure to properly account for the change in value of the federal tax incentive and the assessment of DAF charges undermines the REG program." Motion at 2. Nowhere in its Motion, however, does Green Development provide clear and concise facts to describe the nature of its right or interest in the ceiling prices recommended

by the DG Board. The closest Green Development comes to articulating its particular interest is a representation that it submitted comments during the DG Board's stakeholder process, but that some of its comments were not addressed. A generalized interest of this nature is not sufficient to establish that Green Development may actually be adversely affected or aggrieved by the PUC's decision in this case. See In re Town of New Shoreham Project, 19 A.3d 1226, 1227 (R.I. 2011).

Moreover, Green Development has failed to explain why its purported interest in meeting the goals of the RE Growth policy are not already adequately represented by other parties in the proceeding. Specifically, the Division of Public Utilities and Carriers (the Division) is "statutorily charged with representing the interests of the public, as its advocate, in rate proceedings before the [PUC]." In re Island Hi-Speed Ferry, LLC, 746 A.2d 1240, 1245 (R.I. 2000).<sup>2</sup> The Division's role includes "implementing the policies of the state in regulating the public utilities and carriers so as to achieve the 'ultimate policy goals of providing for adequate, efficient, and economical energy . . . services at just and reasonable rates.'" In re Kent County Water Authority Change Rate Schedules, 996 A.2d 123, 126 (R.I. 2010) (quoting Providence Gas Co. v. Burke, 419 A.2d 263 (R.I.1980)).

Because the Division is responsible for representing the interests of the public – including those members of the public that may propose projects to participate in the RE Growth program, as well as all members of the public that bear the costs of the RE Growth program – Green Development's participation as an intervenor in this docket is not necessary to protect the goals and policies of the RE Growth program.

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<sup>2</sup> See also Narragansett Electric Co. v. Harsch, 117 R.I. 395, 368 A.2d 1194 (1977) ("Thus, it seems manifest that, in pursuit of the public interest set forth in s 39-1-1, the Legislature has conceived a system where by the Division of Public Utilities and Carriers, in addition to its broad regulatory powers, appears on behalf of the public to present evidence and to make arguments before the commission."); R.I. Gen. Laws § 39-26.6-14 ("Nothing in this chapter shall be construed to derogate from the statutory authority of the commission or the division of public utilities and carriers, including, but not limited to, the authority to protect ratepayers from unreasonable rates.").

**B. Green Development Improperly Seeks To Expand The Scope Of This Docket.**

It is apparent from Green Development's Motion that its real intent in seeking to intervene in this docket is to challenge the assessment of DAF charges to its projects. DAF charges are assessed by the Company's transmission service provider, New England Power Company (NEP), in accordance with NEP's Federal Energy Regulatory Commission-approved tariff, Schedule 21-NEP to the ISO-New England Open Access Transmission Tariff (OATT), in certain rare cases when interconnection of distributed generation requires significant upgrades to transmission system assets.

The Company has recently identified DAF charges for a limited set of projects that require construction of a new substation with significant transmission assets, including certain projects proposed by Green Development. The Company and Green Development are currently engaged in the good faith negotiation stage of the Dispute Resolution Process under Section 9.1 of the Company's Standards for Connecting Distributed Generation, R.I.P.U.C. No. 2180, concerning the assessment of DAF charges. The PUC may be called upon to address this issue if the Company and Green Development are unable to resolve the matter and it progresses to further stages of the Dispute Resolution Process. This proceeding, which is limited in scope to address the 2021 RE Growth Program Year, is not the appropriate forum to address Green Development's issues concerning DAF charges. Granting Green Development's request to intervene would likely result in administrative delays and inefficiencies by introducing issues that are outside the scope of this docket.

**III. CONCLUSION**

Green Development has failed to state an adequate basis to intervene in this docket under Rule 1.14 of the PUC's Rules of Practice and Procedure. Its Motion fails to clearly and concisely

state facts to demonstrate that it has an adequate interest in this proceeding that is not already addressed by the Division, which is statutorily charged with representing the interests of the public. Moreover, Green Development's apparent intent to introduce challenges to the assessment of DAF charges for its projects would introduce issues that are outside the scope of this proceeding, risking administrative delays and inefficiencies. For those reasons, the Company respectfully requests that the PUC deny Green Development's Motion. Instead, the PUC may direct Green Development to submit its concerns in the form of public comments.

Respectfully submitted,

**THE NARRAGANSETT ELECTRIC  
COMPANY d/b/a NATIONAL GRID**

By its attorney,



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Dated: December 18, 2020