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August 13, 2021

VIA EMAIL (luly.massaro@puc.ri.gov)
WITH HARD COPIES VIA REGULAR MAIL

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

RE: In re Green Development, LLC; GD Richmond Beaver River I, LLC; GD West Greenwich Nooseneck I, LLC and GD West Greenwich Nooseneck II, LLC, Petitioners

Dear Ms. Massaro:

On behalf of the above-referenced Petitioners, enclosed is a Petition for Dispute Resolution for filing with the Public Utilities Commission. Please kindly confirm receipt. An original Petition and five copies are being sent to you via regular mail.

We are also simultaneously filing a Miscellaneous Petition with the Rhode Island Supreme Court for admission of Attorney Steven Shparber *pro hac vice*. I will forward any communication in that regard received from the Supreme Court upon receipt.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Very truly yours,

/s/ Michael P. Robinson

Michael P. Robinson
RI Bar No. 6306
(401) 238-8500

cc: Service List (via email)

Luly Massaro, Commission Clerk
August 13, 2021
Petition for Dispute Resolution

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**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

In re:)	
)	
)	
GREEN DEVELOPMENT, LLC;)	
GD RICHMOND BEAVER RIVER I, LLC;)	
GD WEST GREENWICH NOOSENECK I, LLC;)	Docket No. _____
GD WEST GREENWICH NOOSENECK II, LLC)	
)	
Petitioners.)	
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PETITION TO CONVENE DISPUTE RESOLUTION PROCESS

Green Development, LLC and its affiliated entities, including GD Richmond Beaver River I, LLC, GD West Greenwich Nooseneck I, LLC, and GD West Greenwich Nooseneck II, LLC (collectively “Green Development”), bring this petition against Narragansett Electric Company (“NEC” or the “Company”) pursuant to Section 9.2a of The Narragansett Electric Company Standards for Connecting Distributed Generation, R.I.P.U.C. No. 2180 (the “Interconnection Tariff”).

The Public Utilities Commission (“PUC”) is charged to regulate the way electric utilities carry on their operations to assure “an abundance of energy, all supplied to the people with reliability, at economical cost, and with due regard for the preservation and enhancement of the environment.” R.I. Gen. Laws § 39-1-1(a)(3). It is the policy of Rhode Island “to provide fair regulation of public utilities and carriers in the interest of the public, to promote availability of adequate, efficient, and economical energy . . . [and] to provide just and reasonable rates and charges for such services and supplies, without unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices, and to cooperate with other states and agencies of the federal government in promoting and coordinating efforts to achieve realization

of this policy.” *Id.* § 39-1-1(b). Green Development presents this petition to ask the PUC to help resolve NEC’s administration of the interconnection of Green Development’s renewable energy projects to NEC’s distribution system, which as described further herein, violates, *inter alia*, several provisions of the R.I. Gen. Laws, Interconnection Tariff, and certain interconnection service agreements (“ISAs”) for several of Green Development’s projects.

In particular, NEC is (1) unlawfully requiring Green Development to prepay significant charges for a large number of the projects in Green Development’s portfolio and (2) acting in an unduly discriminatory manner towards Green Development relative to similarly situated interconnection customers.

FACTS

1) Requirement for Green Development to Prepay Certain Shared Upgrades Already Paid for by Another Customer (in Connection with ISA Nos. 178177, 178178, 178197, 178206, 178207, 178208, 178209, 178210, 178211)

On June 17, 2020, NEC issued a draft impact study report to Green Development for a number of Green Development’s projects at Exeter (Nos. 178177, 178178, 178197, 178206, 178207, 178208, 178209, 178210, 178211¹) (“Exeter Projects”) which included the construction of the Wickford Junction Substation (“Wickford Substation”) and additional line upgrades between Kent County and Drumrock as the only required transmission-related upgrades. The results of this initial study did not identify any costs associated with upgrades to the West Kingston substation. It was not until November 20, 2020 that Green Development was told that additional transmission upgrades would be required for the Exeter Projects as a result of the

¹ The ISA numbers referenced herein are the interconnection case numbers for each respective ISA. For convenience and simplicity, Green Development will refer to each project, associated interconnection request, and respective ISA by its interconnection case number and will omit reference to interconnection request numbers.

impact caused by issues identified during the ASO Group #2 study, a later study in which Green Development was never a participant.

On December 8, 2020, NEC notified Green Development that as a result of the ASO Group # 2 study, Green Development would need to agree to one of the following two options: (1) during a contingency event in which certain transmission lines are down, the Exeter Projects would be taken offline altogether (impractical for Green Development as an option and prohibitive for financing purposes) or (2) Green Development would have to pay for a new breaker and a half ring bus at the West Kingston substation (“West Kingston Ring Bus Upgrade”) with a cost estimate provided at the time of between six and eight million dollars. Green Development selected the second option, *i.e.*, the West Kingston Ring Bus Upgrade.

Prior to the addition of the West Kingston Ring Bus Upgrade, the Exeter Projects were scheduled to reach commercial operation on or by July 15, 2021. However, after adding the West Kingston Ring Bus Upgrade, the Exeter Projects’ commercial operation date was pushed out to June 30, 2023 at the earliest, and therefore all construction milestone dates for the Exeter Projects were also pushed out by approximately two years.

Despite the delay for interconnecting Green Development’s Exeter Projects, NEC moved forward with the construction of the Wickford Substation for the sole purpose of accommodating another interconnection customer who has or will have funded the full cost of the Wickford Substation well in advance of the earliest anticipated interconnection date for Green Development’s Exeter Projects (*i.e.*, June 30, 2023).

NEC is now asking Green Development to prepay a share of the costs of the Wickford Substation, despite those costs being fully paid for by another developer, and **prior to Green Development interconnecting the Exeter Projects**. Despite Green Development’s

interconnection date for the Exeter Projects being pushed out by approximately two years, NEC still insists that Green Development submit payment to NEC for the Exeter Projects according to an outdated construction and interconnection schedule that was contemplated prior to the project and interconnection delays described above. Overall, NEC is requiring Green Development to prepay \$2 million (already paid), \$11.5 million in September 2021, and \$11.5 million in January 2022. As such, NEC is forcing Green Development to pay nearly \$25 million, years in advance of the Exeter Projects' interconnection date.

2) ***Requirement for Green Development to Prepay for West Kingston Ring Bus Upgrade Well in Advance of Construction (in Connection with ISA Nos. 178177, 178178, 178197, 178206, 178207, 178208, 178209, 178210, 178211)***

As discussed above, prior to the addition of the West Kingston Ring Bus Upgrade, the Exeter Projects were scheduled to reach commercial operation on or by July 15, 2021. However, after adding the West Kingston Ring Bus Upgrade, the projects' commercial operation date was pushed out to June 30, 2023, and accordingly, all project and construction milestone dates for the Exeter Projects have been pushed out by almost two years.

Despite this, NEC insists that Green Development submit prepayment for its share of the West Kingston Ring Bus Upgrade according to an outdated construction and interconnection schedule for the Exeter Projects that was contemplated prior to the addition of the West Kingston Ring Bus Upgrade.

3) ***Requirement for Green Development to Shoulder Full Cost of Upgrades to the G-185N and K-189 Lines Between Kent County and Drumrock Substation Despite Other Beneficiaries (in Connection with ISA Nos. 177675, 178197, 178177, 177686, 178178, 178208, 178209, 178210, 178211, 206311, 206313)***

Several of Green Development's Projects (specifically, those projects pertaining to ISA Nos. 178211, 206311, and 206313) were notified that a transmission system impact study identified a need for certain upgrades to the G-185N and K-189 Lines between Kent County and the Drumrock substation ("Kent County-Drumrock Upgrades") triggered by the bottom 96 MW (by queue position south of the Drumrock substation) of the ASO Group #1 study, which included approximately 24.4 MW of projects owned by Green Development.

Accordingly, the costs for the Kent County-Drumrock Upgrades were required to be shared only among the bottom 96 MW of projects (*i.e.*, that triggered the need for the Kent County-Drumrock Upgrades). Thus, Green Development's 24.4 MW of projects within this bottom 96 MW of projects were required to absorb only approximately 25% of the total cost of the Kent County-Drumrock Upgrades.

While it was *not required to do so by law*, Green Development voluntarily requested that the cost of the Kent County-Drumrock Upgrades be shared among an additional 56.32 MW of Green Development projects that were not included in the ASO Group # 1 study, *in addition to the costs being spread among the bottom 96 MW* included in the ASO Group # 1 study that triggered the need for the Kent County-Drumrock Upgrades. (The additional 56.32 MW of Green Development's projects pertain to ISA Nos. 177675, 178197, 178177, 177686, 178178, 178208, 178209, 178210.)

Under Green Development's request, the cost of the Kent County-Drumrock Upgrades would be shared among 152.32 MW of projects (rather than 96 MW of projects) of which 80.72 MW of the total 152.32 MW would belong to Green Development, therefore resulting in

approximately 53% of the total cost of the Kent County-Drumrock Upgrades being allocated to Green Development's projects (rather than the approximately 25% required to be allocated to Green Development's projects). Green Development voluntarily requested this arrangement and to assume this additional cost share in order to spread Green Development's own costs across a larger pool of its projects and thereby reduce certain of Green Development's projects' cost on a per watt basis.

However, instead of acting in accordance with Green Development's request, NEC **incorrectly assigned the entire \$2.6 million cost for the Kent County-Drumrock Upgrades to Green Development's projects alone**, releasing the other 71.6 MW of non-Green Development projects that triggered the need for the Kent County-Drumrock Upgrades from any cost responsibility whatsoever. In other words, while Green Development **was required** to pay approximately 25% of the costs of the Kent County-Drumrock Upgrades, and **volunteered** to pay approximately 53% of the total costs of the Kent County-Drumrock Upgrades, Green Development was **ultimately forced by NEC to pay 100% of the total costs the Kent County-Drumrock Upgrades**.

4) ***Green Development's Attempts at Reaching a Resolution and NEC's Threat to Remove Green Development's Projects from the Queue for Non-Payment of Disputed Bills***

Green Development has had many calls and has exchanged numerous letters and e-mails with NEC to discuss the parties' positions regarding the disputes outlined above in attempting to reach a reasonable resolution. These efforts have included over a dozen calls or in-person meetings between Green Development and NEC in 2020 and 2021, at least six conference calls or in-person meetings since May 2021, and dozens of additional e-mails and letter exchanges.

Green Development also requested a five-part payment plan, in which Green Development offered to make a first payment for any reasonably incurred engineering costs

through or near the start of interconnection of the Exeter Projects, and to defer payment of the remaining shared costs for NEC's completed work until Green Development's interconnection date. NEC has not been forthcoming in response to Green Development's reasonable request.

On July 23, 2021, NEC's unreasonable insistence on Green Development prepaying costs well in advance of Green Development interconnecting its projects reached a new level when, during a conversation between Green Development and NEC personnel, and after an additional attempt by Green Development to reach a reasonable resolution with NEC, NEC personnel claimed that "[payments in] dispute still need to be paid," despite (as discussed below) the ISAs' clear directive that non-payment of a disputed bill does not constitute a breach of the ISAs. *See infra* Section I.d (citing ISA No. 178177 § 18.1(a))

To make matters worse, in the same July 23 conversation, NEC threatened to remove Green Development's projects from the queue for non-payment of disputed bills for any refusal by Green Development to abide by the outdated payment schedule, and despite the payment schedule being the subject of the dispute.

PROCEDURAL HISTORY

Green Development brings this Petition in accordance with the Dispute Resolution Process set forth in Section 9 of the Interconnection Tariff. Green Development first raised its concern to NEC concerning authorization for the charges discussed herein in August 2020 and has since tried in good faith to resolve the issues raised in this Petition.

On May 6, 2021, in accordance with section 9.1a of the Interconnection Tariff, Green Development submitted a request in writing to NEC for initiation of Step 9.1 of the Dispute Resolution Process, requesting that NEC elevate the disputed issues to a Vice President or senior manager with sufficient authority to make decisions.

As stated above, the parties have since had many calls and exchanged additional correspondence to go over their positions regarding these disputes, including at least six conference calls or in-person meetings since May 6, 2021 and dozens of additional letters and e-mails. While NEC and Green Development have been able to resolve their disputes with respect to some of the issues outlined in the May 6, 2021 letter, NEC and Green Development have not been able to reach agreement on the remaining issues described (but not limited to those described) herein.

Accordingly, Green Development now petitions the PUC for dispute resolution assistance per Section 9.2 of the Interconnection Tariff.²

ARGUMENT

I. NEC is Unlawfully Requiring Green Development to Prepay Costs for Several of Green Development’s Projects; Green Development Contests the Demanded Payment Timelines as a Violation of the Statute, the Interconnection Tariff, and the ISAs

a. NEC is Violating Rhode Island General Laws § 39-26.3-4.1(c) by Requiring Green Development to Prepay Certain Shared Facilities Before Interconnection

Under Section 39-26.3-4.1(c), a subsequent customer relying on modifications already paid for is not required to make prorated contributions towards the cost of those system modifications until it “relies on those modifications to connect to the distribution system”:

If an interconnecting, renewable-energy customer is required to pay for system modifications and a subsequent renewable-energy or commercial customer ***relies on those modifications to connect*** to the distribution system within ten (10) years of the earlier interconnecting, renewable-energy customer’s payment, the subsequent customer will make a prorated contribution toward the cost of the system modifications that will be credited to the earlier interconnecting, renewable-energy customer as determined by the public utilities commission.

§ 39-26.3-4.1(c) (emphasis added).

² See Interconnection Tariff § 9.1b (“If, after 8 days, the dispute is still not resolved, one or both Parties may initiate Section 9.2.a.”)

NEC is now asking Green Development to prepay for a share of the costs for the Wickford Substation, despite those costs having been fully paid for by another developer, and **prior to Green Development interconnecting the Exeter Projects**. The other developer is scheduled for interconnection in December of 2021 **and has fully funded the costs of the needed upgrades**. However, as described above, Green Development cannot interconnect its Exeter Projects and use the upgrades at issue until June of 2023, at the earliest. The requested proration constitutes an unlawful prepayment that is not yet required of Green Development. Overall, NEC is demanding prepayment in connection with the Exeter Projects of \$2 million (already paid), \$11.5 million in September 2021, and \$11.5 million in January 2022. That is nearly \$25 million that NEC is requesting Green Development to pay two years prior to the anticipated interconnection date of the Exeter Projects. However, Green Development’s Exeter Projects are “subsequent” to the other developer’s projects that triggered the need for the Wickford Substation, and Green Development will not “rel[y] on those [earlier] modifications,” to “connect to the distribution system” until June 30, 2023, at the earliest. As such, requiring Green Development to pay the full cost of such upgrades at this time conflicts with Section 39-26.3-4.1(c).

Any payment schedule set forth in Attachment 3 of the ISAs for the Exeter Projects cannot be read to override the plain language and requirements of Rhode Island General Laws § 39-26.3-4.1 and cannot be implemented in a manner that disadvantages Green Development by demanding payment prior to use of the upgrades (or that gives an advantage to other interconnection customers by prematurely crediting the other customers’ accounts before Green Development realizes any of the shared potential benefits of the upgrades).

b. Narragansett is Violating the Interconnection Tariff by Requiring Green Development to Prepay Certain Costs for System Modifications Well in Advance of the Commencement of Construction of the Modifications

Section 5.5 of the Interconnection Tariff sets forth a mutual performance obligation with respect to payment and construction of System Modifications on behalf of both Interconnection Customer and the interconnecting utility. Section 5.5 of the Interconnection Tariff states:

All application, study fees, and System Modification costs (except as noted below) are ***due in full prior to the execution of the work as outlined in this Interconnection Tariff***. If the anticipated costs exceed \$25,000, the Interconnecting Customer is eligible for a payment plan, including a payment and construction schedule with milestones for both parties. ***At the request of the Interconnecting Customer, the Company will break the costs into phases in which the costs will be collected prior to Company expenditures for each phase of the study and/or construction including ordering equipment. The payment plan will be attached as an exhibit to the ISA or relevant study agreements. The Company will not be required to initiate any work for which advanced payment has not been received.***

Tariff § 5.5. (emphasis added).

The language of the Interconnection Tariff stating fees “***are due in full prior to the execution of the work***” and “***Company will not be required to initiate any work for which advanced payment has not been received***” implies a mutual performance obligation on behalf of both NEC and its interconnection customers. *Id.* (emphasis added). *Cf., Guglielmi v. Guglielmi*, 431 A.2d 1226, 1228 (1981) (“[C]ovenants and promises in a bilateral contract are mutually dependent.”); *Bradford Dyeing Ass'n, Inc. v. J. Stog Tech GmbH*, 765 A.2d 1226, 1238 (2001) (“It is further both elementary as well as fundamental contract law that if one party to the contract prevents the happening or performance of a condition precedent that is part of the contract, that action eliminates the condition precedent.”)

Accordingly, Green Development is not required to pay for any phase or section of the Exeter Projects for which work has not commenced *or is not about to commence*. Moreover, the Interconnection Tariff states that “[a]t the request of the Interconnecting Customer, ***the Company***

will break the costs into phases in which the costs will be collected prior to Company expenditures *for each phase of the study and/or construction* including ordering equipment.”

Id. (emphasis added). As such, it is beyond question that Green Development is entitled to break payment up into phases corresponding with NEC’s incurrence of actual costs. Any purported requirement to the contrary in the ISAs is unenforceable. Indeed, as described above, Green Development has requested of NEC a five-part payment plan, in which Green Development offered to make a first payment for any reasonably incurred engineering costs for the Exeter Projects through or near the start of interconnection, and to defer payment of the remaining shared costs for completed work until Green Development’s interconnection date. NEC has not been forthcoming with respect to Green Development’s reasonable request.

To the extent that there is conflict between the Interconnection Tariff and the ISAs, the Interconnection Tariff supersedes the ISAs. *See, e.g.*, ISA No. 178177 § 20 (“In the event of conflict between this Agreement, the Interconnection Tariff, or the terms of the any other Tariff, Exhibit or Attachment incorporated by reference, the terms of the Interconnection Tariff . . . shall control.”) As such, Green Development cannot be held to any payment schedule in the ISAs that would violate the mutual performance obligations set forth in the Interconnection Tariff, particularly in light of the fact that, as explained further below, the ISAs themselves contain mutual performance obligations. NEC must extend the payment due dates for the Exeter Projects and grant any request of Green Development to break up the payments into phases commensurate with NEC’s actual performance of work.

c. Narragansett is Violating the ISAs by Requiring Green Development to Prepay Costs for System Modifications Well in Advance of the Commencement of Construction of the Modifications

Under the ISAs, Green Development is not required to pay NEC until immediately prior to NEC’s initiation of construction of System Modifications. As explained above, the West

Kingston Ring Bus Upgrade, upon which the Exeter Projects rely, cannot be constructed until June 30, 2023, at the earliest. Green Development's projects cannot interconnect until the West Kingston Ring Bus is put into service. ***Despite not constructing the West Kingston Ring Bus until 2023, NEC is demanding Green Development pay over \$23 million by the end of 2021, for upgrades that have not been constructed and that Green Development cannot utilize until June 30, 2023, at the earliest.***

This directly conflicts with the terms the Exeter Projects' ISAs. These ISAs provide that the "Interconnecting Customer shall be responsible for the System Modification costs and payment terms identified in Attachment 3 . . . and any approved cost increase pursuant to the terms of the Interconnection Tariff." *See, e.g.,* ISA No. 178177 § 5 (General Payment Terms).

While Attachment 3 of the ISAs sets forth a payment schedule, it also states that "[t]he physical construction of system modifications will not commence until full payment is received." *Id.*, Attachment 3. Like the language of Section 5.5 of the Interconnection Tariff, the language of the ISAs implies a mutual performance obligation on behalf of both Green Development and NEC pursuant to bilateral contracts.

Longstanding Rhode Island caselaw holds that, "covenants and promises in a bilateral contract are mutually dependent." *Guglielmi v. Guglielmi*, 431 A.2d at 1228. Moreover, it is "both elementary as well as fundamental contract law that if one party to the contract prevents the happening or performance of a condition precedent that is part of the contract, that action eliminates the condition precedent." *Bradford Dyeing Ass'n, Inc. v. J. Stog Tech GmbH*, 765 A.2d at 1238.

Accordingly, if NEC does not commence construction of the system modifications at issue, then Green Development is not required to pay until immediately prior to the condition

precedent being fulfilled, *i.e.*, the commencement of construction. This further comports with widely accepted industry standards and practices. For example, ISO-NE’s small generator interconnection procedures require interconnection customers to post security—such as a corporate guarantee, surety bond, or letter of credit—before performing design, procurement, or construction activities—but payment for work performed is due on a rolling monthly basis during construction.³ In PJM, the nation’s largest regional power pool, security is required at the time the interconnection customer signs its ISA, but the interconnected utility invoices the project on a rolling basis for the projected cost of work to be performed during the prompt quarter of construction.⁴

Accordingly, NEC must cease its unlawful demand for prepayment, or in the alternative, provide a payment schedule that accords with the Interconnection Tariff and ISAs.

d. Green Development’s Refusal to Pay a Disputed Bill Does Not Constitute “An Event of Default” under the Applicable ISAs

Under the applicable ISAs a refusal by Green Development to pay a disputed bill does not constitute “An Event of Default.” Accordingly, NEC may not suspend its performance under the ISAs while Green Development disputes the amount and/or due date for any applicable payments, and NEC may not remove projects from the queue for nonpayment of any amounts in dispute, as it has threatened to do. Section 18.1(a) of the ISAs provides that default occurs when “[o]ne of the Parties ***shall fail to pay any undisputed bill*** for charges incurred under this Agreement or other amounts which one Party owes the other Party as and when due, any such failure shall continue for a period of thirty (30) days after written notice of nonpayment from the affected Party to the defaulting Party.” *See, e.g.*, ISA No. 178177 § 18.1(a) (emphasis added).

³ *See* ISO-NE Open Access Transmission Tariff, Attachment 23, Article 6.1.

⁴ *See* PJM Open Access Transmission Tariff, Part VI § 217.

Accordingly, there can be no default for nonpayment of the *disputed bills* at issue while the dispute is in progress. Moreover, if NEC refuses to perform under the ISAs solely because Green Development refuses to pay the *disputed bills*, NEC itself will be in Default of the ISAs (*see id.*), and Green Development reserves the right to seek any and all damages caused by any breach or unlawful attempt of NEC to retaliate against Green Development for disputing such bills.

II. NEC's Actions are Unduly Discriminatory Towards Green Development and Give Undue Preference and Advantage to Substantially Similar Customers

Rhode Island law clearly proscribes a public utility from treating similarly situated customers differently. R.I. Gen. Laws § 39-2-2(a) states.

If any public utility . . . shall directly or indirectly, by any device whatsoever, or otherwise, charge, demand, collect, or receive from any person, firm, or corporation a greater or less compensation for any service rendered or to be rendered by it, in, or affecting, or relating to the transportation of persons or property between points within this state, the distribution of electricity . . . than that prescribed in the published schedules or tariffs then in force or established as provided herein, or than it charges, demands, collects, or receives from any other person, firm, or corporation for a like and contemporaneous service, under substantially similar circumstances and conditions, the public utility shall be guilty of unjust discrimination

(emphasis added).

Further, a public utility may not “give any undue or unreasonable preference or advantage to any particular person, firm, or corporation, or shall subject any particular person, firm, or corporation to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.” Section 39-2-3(a). The totality of the circumstances and NEC’s foregoing violations of the R.I. Gen. Laws, Interconnection Tariff, and ISAs outlined herein demonstrate a pattern of discriminatory administration of the Interconnection Tariff by NEC that disadvantages Green Development relative to substantially similar interconnection customers.

Further, in the course of Green Development’s efforts to interconnect its projects, NEC has treated substantially similar customers differently than Green Development, in particular, by forcing Green Development to shoulder the upfront cost of interconnection upgrades on behalf of other customers who are benefiting from the same upgrades, with no reimbursement (or guarantee thereof) to Green Development for shouldering such costs, and despite the requirement in Section 39-26.3-4.1(c) that a subsequent customer relying on modifications already paid for by another customer must make prorated contributions towards the cost of those modifications if it “relies on those modifications to connect to the distribution system.”

Notably, as discussed above in Section 3 of the Facts, NEC **incorrectly assigned the entire \$2.6 million cost for the Kent County-Drumrock Upgrades to Green Development’s projects alone**, releasing 71.6 MW of non-Green Development projects that triggered the need for the Kent County-Drumrock Upgrades from any cost responsibility whatsoever. As explained, Green Development was **originally required to pay** approximately 25% of the cost of the Kent County-Drumrock Upgrades, but **volunteered** to pay approximately 53% of the total cost of the Kent County-Drumrock Upgrades. Instead, **NEC unlawfully required Green Development to pay 100% of the total costs of the Kent County-Drumrock Upgrades**. Green Development was not required by law to pay more than a 25% share of the Kent County-Drumrock Upgrades and at no point offered to absorb all the costs for the these upgrades—Green Development simply offered to pay a greater percentage of the total costs of the Kent County-Drumrock Upgrades (i.e., 53%) than it was required to pay (i.e., 25%).

It is unduly discriminatory to force Green Development to assume **the additional costs** that it was not required and did not offer to pay for the Kent County-Drumrock Upgrades, without any reimbursement from the subsequent customers relying on the Kent County-

Drumrock Upgrades “to connect to the distribution system” in return for the additional share of upgrade costs improperly assessed to Green Development. *See* Section 39-26.3-4.1(c). Such action by NEC provides those other customers (who are benefiting from Green Development’s involuntary assumption *of all costs* for the Kent County-Drumrock Upgrades) with a clearly undue preference and advantage in violation of R.I. Gen. Laws §§ 39-2-2 and 39-2-3.

REQUESTED RELIEF

Green Development respectfully requests that the PUC convene the dispute resolution process in the form of formal mediation/arbitration as set forth in Section 9.2 of the Interconnection Tariff. Through formal mediation/arbitration, Green Development will seek to resolve the disputes outlined herein, and to the extent possible, reach agreement on reasonable payment timelines and terms that are consistent with the applicable provisions of the R.I. Gen. Laws, Interconnection Tariff, and ISAs.

**GREEN DEVELOPMENT, LLC;
GD WEST GREENWICH NOOSENECK I, LLC;
GD WEST GREENWICH NOOSENECK II, LLC; and
GD RICHMOND BEAVER RIVER I, LLC**

By their attorneys,

/s/Michael P. Robinson

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Steven Shparber (*pro hac vice* application pending with the
Rhode Island Supreme Court)

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CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2021, I delivered a true copy of this Petition to Narragansett Electric Company's counsel by electronic mail.

/s/ Allison Y. Charette