

June 3, 2016

**VIA HAND DELIVERY & ELECTRONIC MAIL**

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

**RE: Docket 4265 - Review of Power Purchase Agreement Between The Narragansett Electric Company d/b/a National Grid and Orbit Energy Rhode Island, LLC Pursuant to R.I.G.L. § 39-26.1-7**  
**Fourth Amendment to Power Purchase Agreement dated May 27, 2016**

Dear Ms. Massaro:

This letter is to notify the Rhode Island Public Utilities Commission (PUC) that National Grid<sup>1</sup> has executed the following amendment to the Power Purchase Agreement (PPA) between National Grid and Orbit Energy,<sup>2</sup> which the PUC approved by written order dated August 18, 2011 in Docket No. 4265, and which was amended by the First Amendment to Power Purchase Agreement dated as of April 11, 2013 (First Amendment) and the Second Amendment to Power Purchase Agreement and Acknowledgement dated as of December 9, 2013 (Second Amendment), as approved by the PUC on April 11, 2014 in Docket No. 4265, and the Third Amendment to Power Purchase Agreement and Acknowledgement dated as of January 9, 2015 (Third Amendment), as approved by the PUC on March 31, 2015 in Docket No. 4265. The Company requests that the PUC approve the enclosed amendment:

- Fourth Amendment to Power Purchase Agreement dated as of May 27, 2016 (Fourth Amendment) to modify the critical milestone date set forth in clause (vi) of Section 3.1(a) of the PPA to achieve the Commercial Operation Date.

The PPA is for a 3.2 MW anaerobic digester biogas project with an initial bundled price of 9.5 cents per kilowatt-hour in 2013, subject to an interconnection cost adjustment with an initial price cap of 10.0 cents per kilowatt-hour in 2013. At the time of the filing, the project was forecasted to be at or below market prices.

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

<sup>2</sup> Orbit Energy Rhode Island, LLC (herein referred to as Orbit Energy).

Pursuant to the Third Amendment, the parties agreed to extend the Commercial Operation Date to December 31, 2015 (among other deadlines). Paragraph 3 of the Third Amendment allowed Orbit Energy to extend the Commercial Operation Date for an additional 6-month period by posting additional collateral of \$22,500. On or around September 10, 2015, Orbit Energy exercised its right to extend the Commercial Operation Date to June 30, 2016 and posted the required additional collateral. There are no further extensions allowed under the PPA.

Orbit Energy approached the Company regarding a modification of the Commercial Operation Date. Certain construction delays and the interconnection process were the reasons for this request. Orbit Energy still needs to complete certain physical work, including mechanical work and a small amount of electrical work, which is waiting on receipt of a certain part from overseas. Orbit Energy does not anticipate being able to complete this work by June 30, 2016. Orbit Energy must complete this work and submit proof of municipal inspection of the electrical work before National Grid can complete the required substation work and finalize the interconnection, all of which are necessary for Orbit Energy to be fully operational.<sup>3</sup>

Based on the above, and after consultation with the Rhode Island Division of Public Utilities and Carriers (Division), National Grid agreed to modify the Commercial Operation Date to June 30, 2017.<sup>4</sup> In order to provide visibility to the project over this period of time, the Division requested, and National Grid has agreed, to provide copies of the quarterly status reports that Orbit Energy submits to the Company pursuant to the terms of the PPA to the Division and the PUC. Also, as an incentive and evidence of Orbit Energy's good faith to achieve commercial operation, Orbit Energy has posted additional collateral in the amount of \$45,000 in accordance with the terms of the Fourth Amendment.

The Company continues to believe that the Orbit Energy PPA is a good project for Rhode Island. Significantly, Orbit Energy has, as of the date of the Fourth Amendment, obtained all of the required permits (except for the operating permit), which the Company believes continues to show progress with the project and a good faith effort by Orbit Energy to achieve commercial operation. In addition, the changes reflected in the Fourth Amendment do not alter the bundled price under the PPA or the size and scope of the project. Furthermore, the PPA pricing is still forecasted to be below market<sup>5</sup> and will continue to benefit customers. The project also continues to bring diversity to the Company's renewable energy portfolio. For these reasons, the Company continues to support the PPA and urges the PUC to approve the Fourth Amendment.

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<sup>3</sup> On the generation side, there will be another inspection before National Grid authorizes the facility to generate power onto the grid, first at the 1.2 MW level and then finally at full load generation at 3.2 MW following completion of the substation work. There are also certain telecommunications connections that National Grid needs to complete in the substation as part of the interconnection process before full generation can occur. These telecommunication connections have been delayed as a result of the ongoing Verizon strike.

<sup>4</sup> National Grid, in consultation with the Division, believes that extending the Commercial Operation Date by a year is reasonable in light of the uncertainty of the timing as a result of the ongoing Verizon strike.

<sup>5</sup> See Response of National Grid to Commission Data Request 8-1, Docket No. 4371 (Filed, October 23, 2015).

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As noted above, the Company has consulted with the Division, and they have indicated their support for the Fourth Amendment.

By filing this letter, National Grid requests that the PUC issue a ruling at an Open Meeting that affirmatively approves the Fourth Amendment and authorizes the Company to proceed under the PPA, as amended.<sup>6</sup>

Thank you for your attention to this transmittal. If you have any questions, please feel free to contact me at 401-784-7288.

Very truly yours,



Jennifer Brooks Hutchinson

Enclosures

cc: Docket 4265 Service List  
Leo Wold, Esq.  
Jon Hagopian, Esq.  
Steve Scialabba, Division

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<sup>6</sup> In the alternative, the PUC may affirm that the enclosed letter constitutes sufficient notification to the PUC of the Fourth Amendment and that no further regulatory approvals are required.

## FOURTH AMENDMENT TO POWER PURCHASE AGREEMENT

This FOURTH AMENDMENT TO POWER PURCHASE AGREEMENT (this "**Amendment**") is entered into as of May 27, 2016, by and between The Narragansett Electric Company, d/b/a National Grid, a Rhode Island corporation ("**Buyer**"), and Orbit Energy Rhode Island, LLC, a Rhode Island limited liability company ("**Seller**"). Buyer and Seller are individually referred to herein as a "**Party**" and are collectively referred to herein as the "**Parties**").

**WHEREAS**, Buyer and Seller are parties to that certain Power Purchase Agreement dated as of May 26, 2011 and approved by the Rhode Island Public Utilities Commission ("**PUC**") on August 18, 2011 in Docket No. 4265, as amended by the First Amendment to Power Purchase Agreement dated as of April 11, 2013, by the Second Amendment to Power Purchase Agreement and Acknowledgement dated as of December 9, 2013, as approved by the PUC on April 11, 2014 in Docket No. 4265, and as amended by the Third Amendment to Power Purchase Agreement dated as of January 9, 2015, as approved by the PUC on March 31, 2015 in Docket No. 4265 (the "**Agreement**"), pursuant to which Seller has agreed to sell and deliver, and Buyer has agreed to purchase and receive, the Products generated by or associated with the Facility during the Services Term (in each case as defined in the Agreement); and

**WHEREAS**, Seller has exercised all of its rights to extensions of the dates for the Critical Milestones under Section 3.1(c) of the Agreement and under the Third Amendment to Power Purchase Agreement; and

**WHEREAS**, Seller has requested a further extension of the deadline to achieve the Commercial Operation Date under Section 3.1(a) of the Agreement;

**NOW, THEREFORE**, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The text of clause (vi) of Section 3.1(a) of the Agreement is deleted in its entirety and replaced with the following:

(vi) achievement of the Commercial Operation Date by June 30, 2017.

2. The following is added at the end of Section 3.2(a) of the Agreement:

Notwithstanding the provisions of Section 12, Buyer may, in its sole discretion, file any progress reports and other material provided to it under this Section 3.2(a) with the PUC and/or the Rhode Island Division of Public Utilities and Carriers.

3. Section 7.2(n) is added to the Agreement immediately following Section 7.2(m) of the Agreement, reading as follows:

(n) From and after May 27, 2016 until the Commercial Operation Date, Buyer has all of the Permits needed for the construction of the Facility, all of which are in full force and effect.

4. In consideration for Buyer's agreement to extend the Critical Milestone deadlines as set forth in paragraph 1 of this Amendment, Seller shall post with Buyer additional Development Period Security of \$45,000 (the "Additional Collateral"). The Additional Collateral will be added to the required amount of Development Period Security for all purposes of the Agreement. The Additional Collateral shall be deemed to be, and shall comply and with the requirements of, Development Period Security, Credit Support and Posted Collateral for all purposes of the Agreement.

5. This Amendment is conditioned upon and shall not become effective unless and until (i) Buyer has received the Additional Collateral and (ii) either (a) the PUC confirms, in a manner that is acceptable in form and substance to Buyer in its sole discretion, that PUC approval is not required in order for the effectiveness of this Amendment or (b) the PUC approves this Amendment without material modification or conditions, which approval shall be final and not subject to appeal or rehearing and shall be acceptable to Buyer in its sole discretion.

6. The usage in this Amendment of terms which are defined in the Agreement is in accordance with the usage thereof in the Agreement.

7. Except as specifically amended hereby, all terms and provisions contained in the Agreement shall remain unchanged and in full force and effect, and each of the Parties ratifies and confirms all such terms and provisions. In the event of a conflict between the provisions of this Amendment and the Agreement, the provisions of this Amendment shall govern.

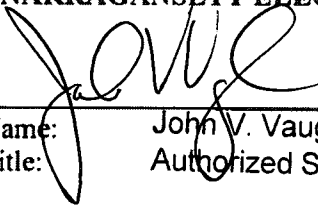
8. Two or more counterparts of this Amendment may be signed by the parties, each of which shall be an original but all of which together shall constitute one and the same instrument. Facsimile signatures hereon shall be deemed to have the same effect as original signatures.

9. Interpretation and performance of this Amendment shall be in accordance with, and shall be controlled by, the laws of the State of Rhode Island (without regard to its principles of conflicts of law).


*[Signature Page Follows]*

**IN WITNESS WHEREOF**, each of Buyer and Seller has caused this Amendment to be duly executed on its behalf as of the date first above written.

**THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID**

By:  *CAC*  
Name: John V. Vaughn  
Title: Authorized Signatory

**ORBIT ENERGY RHODE ISLAND, LLC**

By:   
Name: David March  
Title: Managing Partner

Certificate of Service

I hereby certify that a copy of the cover letter and any materials accompanying this certificate was electronically transmitted to the individuals listed below.

The paper copies of this filing are being hand delivered to the Rhode Island Public Utilities Commission and to the Rhode Island Division of Public Utilities and Carriers.

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Joanne M. Scanlon

June 3, 2016  
Date

**Docket No. 4265 National Grid – PPA w/ Orbit Energy RI  
Service List updated 6/3/16**

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