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March 12, 2015

Via Electronic Mail and Hand Delivery

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

Re: Docket No. 4554 – In Re: 2015 Electric Retail Rate Filing

Dear Ms. Massaro:

Enclosed for filing in the above-referenced matter are ten (10) copies of The Narragansett Electric Company d/b/a National Grid's Responses to the Commission's Second Set of Data Requests issued on March 4, 2015 in the above-referenced docket.

Very truly yours,

A handwritten signature in black ink, appearing to read "Adam M. Ramos", written in a cursive style.

Adam M. Ramos

AMR:cw
Enclosures

cc: Docket No. 4554 Service List (electronically only)

53142897 (57972.163596)

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HINCKLEY, ALLEN & SNYDER LLP, ATTORNEYS AT LAW

PUC 2-1

Request:

Referring to Theresa R. Guleksen, Page 7, lines 17-21, for clarification, please confirm whether National Grid is one of the New England Transmission Operators impacted by Opinion 531-A, and identify the entities paying and receiving the refunds referenced in TRG-5, pages 1-2.

Response:

New England Power Company d/b/a National Grid (NEP) is one of the New England Transmission Owners (NETOs) directly impacted by Opinion 531-A. NEP is the wholly-owned public utility subsidiary of National Grid USA operating transmission facilities within the ISO New England Inc. (ISO-NE) control area. NEP provides transmission of electricity at wholesale to electric utilities and municipalities in New England under the terms of the ISO-NE Tariff. NEP operates transmission facilities that it owns directly as well as certain transmission facilities owned by its distribution affiliates, including The Narragansett Electric Company (TNEC or the Company), through integrated facilities agreements under NEP's FERC Electric Tariff No. 1. The NETOs named in the FERC complaint dockets producing Opinion No. 531-A and directly impacted by it are: Bangor Hydro-Elec. Co.; Central Maine Power Co.; NEP; New Hampshire Transmission LLC; NSTAR Electric & Gas Corp.; Northeast Utilities Service Co.; United Illuminating Co.; Unitil Energy Systems, Inc. and Fitchburg Gas & Electric Light Co.; and Vermont Transco, LLC. A reduction in the Return on Equity allowed for transmission facilities owned by the NETOs gives rise to their respective refund liability.

ISO-NE is responsible for administering the billing and collecting revenues for regional transmission service through the regional transmission facilities owned by the NETOs. ISO-NE will be responsible for issuing or paying refunds as a result of Opinion 531-A to wholesale customers paying for regional transmission services under the ISO-NE Tariff. The NETOs are responsible for billing customers using their respective "local" transmission facilities under Schedule 21 of the ISO-NE Tariff and, therefore, will be responsible for issuing or paying refunds resulting from Opinion 531-A to wholesale customers who use the NETOs' local transmission facilities.

Entities receiving refunds pursuant to Opinion 531-A are wholesale transmission customers taking transmission service under the ISO-NE Tariff via a combination of regional and local transmission rates, including TNEC. To the extent that they also take transmission service under the ISO-NE tariff, the NETOs may also be entitled to a refund.

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As reflected in Schedule TRG-1, page 1, it is estimated that Narragansett will receive refunds of \$1.02 million from NEP and \$3.02 million from ISO-NE related to the lower allowed return on equity ordered in Opinion 531-A.

PUC 2-2

Request:

Identify the nine resources on page 33, line 20 of Jeanne Lloyd.

Response:

Page 33, Line 20 of Jeanne Lloyd's testimony erroneously indicates that there were nine resources that have executed contracts under either the Long-Term Contracting Standard for Renewable Energy statute or the Distributed Generation Standard Contracts Act that were operating commercially for at least one or more months during the reconciliation period. The correct number of resources is 21.

They are as follows:

	Resource	Asset No.
1	RI LFG Genco	40054
2	Wind Energy Dev. NK Green LLC	42394
3	Con Edison Development Plain Mtg House	43512
4	ACP Land LLC 28 Jacome Way	43527
5	Comtram Cable	43586
6	CCI New England 500 kW	43607
7	Conanicut Marine Services (CMS) Solar	43685
8	Black Bear Orono B Hydro	38083
9	West Davisville Solar	43716
10	Forbes Street Solar	43762
11	CCI New England 181 kW	43921
12	100 Dupont Solar	44003
13	225 Dupont Solar	44004
14	35 Martin Solar	44006
15	0 Martin Solar	44005

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	Resource	Asset No.
16	Gannon & Scott Solar	44010
17	All American Foods Solar	46721
18	NextSun Energy North Smithfield	46911
19	Woonsocket - T.E.A.M. Solar	46913
20	Newport Vineyards	46917
21	Stillwater SER Solar	46926

PUC 2-3

Request:

Would it be fair to characterize the base transmission charge as a pass-through charge to the extent that it recovers from ratepayers FERC-approved costs incurred by National Grid in obtaining transmission services from entities such as ISO-NE and NEP?

Response:

Yes, that would be a fair characterization.

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PUC 2-4

Request:

Nationalgrid.com states, "In the U.S., we jointly own and operate transmission facilities spanning upstate New York, Massachusetts, New Hampshire, Rhode Island and Vermont." Quantify the number and value of transmission assets owned and operated by National Grid in each of the aforementioned New England states.

Response:

The below table is National Grid's Gross Transmission Plant investment in New England as of December 2012.

National Grid Gross Transmission Plant by Subsidiary

	New England Power	Narragansett Electric	Massachusetts Electric	New England Hydro- Transmission Corporation	New England Electric Transmission	New England Hydro-Trans. Elec. Co., Inc.	TOTAL TRANSMISSION Plant Investment
MA Total	86,070,517		47,856,277			227,809,102	361,735,896
NH Total	154,536			160,008,652	21,511,044		181,674,232
RI Total	41,415,622	486,729,573					528,145,195
VT Total	<u>1,710,318,128</u>						<u>1,710,318,128</u>
CY 2012 Total	<u>1,837,958,802</u>	<u>486,729,573</u>	<u>47,856,277</u>	<u>160,008,652</u>	<u>21,511,044</u>	<u>227,809,102</u>	<u>2,781,873,450</u>

PUC 2-5

Request:

Is National Grid a transmission company within the meaning of R.I.G.L. §39-1-2(13)?

Response:

The term "National Grid" is not defined in the question and it is unclear to which National Grid entity the question is referring. The Company has interpreted "National Grid" to mean the relevant National Grid subsidiaries described in this response.

National Grid plc is the parent of National Grid USA and is based in the United Kingdom. National Grid USA is a wholly-owned subsidiary of National Grid plc. National Grid USA's subsidiary operating companies, including The Narragansett Electric Company (TNEC) and New England Power Company (NEP), own and operate the transmission and distribution systems across their respective service territories.

In Rhode Island, the relevant National Grid USA operating subsidiaries that could be construed as transmission companies within the meaning of R.I.G.L. §39-1-2(13) include TNEC and NEP. TNEC owns transmission facilities and, therefore, is a transmission company within the meaning of the statute. Pursuant to the terms of an Integrated Facilities Agreement under NEP's FERC Electric Tariff No. 1, NEP operates and controls its own transmission facilities and those of its distribution affiliates, including TNEC, for purposes of providing wholesale transmission service over a single integrated National Grid transmission system. NEP compensates TNEC for its transmission facilities under a FERC-approved formula cost-of-service rate under NEP's Tariff No. 1. In turn, NEP's costs to support TNEC facilities are allocated among wholesale transmission customers in New England in accordance with the ISO New England Transmission Tariff. Accordingly, because NEP operates and controls TNEC transmission facilities under the terms of Tariff No. 1, it would also appear to be a transmission company within the meaning of R.I.G.L. §39-1-2(13).

PUC 2-6

Request:

When the PUC approves a base transmission charge, is it regulating a transmission company?

Response:

When the PUC approves the base transmission charge, it is regulating the retail rates of The Narragansett Electric Company (TNEC or the Company) to recover costs TNEC incurs under FERC-approved wholesale transmission rates.

As described in pages 16-17 of Ms. Jeanne Lloyd's testimony, TNEC has a retail delivery service tariff, RIPUC 2115, which includes a Transmission Service Cost Adjustment (TSCA) provision. This provision enables TNEC to pass-through prudently incurred transmission costs. This includes costs billed to TNEC by NEP, ISO-NE, or any other entity that is authorized to bill TNEC directly for wholesale transmission services. Please see pages 3-11 of the testimony of Ms. Terry Guleksen for a summary of the types of transmission services for which TNEC is billed. Under the TSCA provision, TNEC is allowed full recovery of these transmission costs from retail customers. As discussed in the testimony of Ms. Lloyd and Ms. Guleksen, this cost-recovery is based on a forecast of TNEC's transmission costs and includes a full reconciliation adjustment for any over- or under-recoveries from the prior year.

Please also see the Company's response to PUC 2-7 for a discussion of the legal basis for the PUC's authority to approve recovery of transmission costs.

PUC 2-7

Request:

Notwithstanding that transmission charges are allowed pursuant to R.I.P.U.C. 2115, given the FERC's jurisdiction over the transmission of electricity in interstate commerce, and given that most of the transmission costs referred to in this filing are incurred pursuant to FERC approved tariffs, explain the legal basis of the PUC's authority to approve or deny a proposed base transmission charge.

Response:

As a threshold matter, federal preemption principles prohibit the PUC from modifying or excluding costs incurred by The Narragansett Electric Company (TNEC or the Company) under FERC-approved wholesale rates in the Company's retail rates. The so-called Narragansett doctrine (discussed below) requires state commissions to treat costs based upon FERC-filed rates as reasonable operating costs. The PUC's authority to approve the proposed base transmission charges in this filing lies within the PUC's authority to allocate those transmission costs to the Company's retail customers through retail rates. The Rhode Island legislature has conferred the exclusive authority to regulate retail rates to the PUC, whereas the Federal Power Act has conferred exclusive jurisdiction in FERC to regulate interstate wholesale utility rates.¹ The result is a blend of state-federal regulation, each with exclusive authority in its respective area. The following body of case law helps to illustrate this principle.

In *Narragansett v. Burke*,² the Rhode Island Supreme Court determined that the PUC lacked the authority to question the reasonableness of Federal Power Commission (FPC) (predecessor to FERC) approved wholesale rates for purposes of setting retail rates.³ In *Narragansett*, the PUC refused to pass on to retail customers the costs incurred by the Company for power

¹ See R.I.G.L. § 39-1-1 (vesting exclusive power and authority in the public utilities commission and division of public utilities and carriers to regulate intrastate commerce energy); R.I.G.L. § 39-3-11 (authorizing the PUC to conduct hearings to investigate the propriety of proposed rate changes); 16 U.S.C. § 824 (vesting exclusive jurisdiction in the federal energy regulatory commission to regulate interstate wholesale utility rates); See also *Narragansett v. Burke*, 119 R.I. 559, 565 (1978) (discussing the blend of state and federal regulation).

² 119 R.I. 559, 381 A.2d 1358 (1977), *cert. denied* 435 U.S. 972 (1978).

³ *Narragansett* at 1361, 564-65.

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purchased from New England Power pursuant to an FPC rate schedule where the PUC found such costs unreasonable.⁴ On appeal, the Rhode Island Supreme Court reversed the PUC on the basis of federal preemption. The court in *Narragansett* stated that “[i]n fixing just rates, the PUC must protect both the right of the public utility company and its investors to . . . earn a return reasonably sufficient to maintain the utility’s financial integrity . . . and the consumer’s right to pay a rate which accurately reflects the cost of service rendered plus a reasonable profit.”⁵ The court held that the PUC must treat FERC-filed rates as reasonable operating expenses of the utility.⁶

The Rhode Island Supreme Court’s holding is known as the “Narragansett doctrine,” and it has been applied by other state supreme courts in similar cases.⁷ These cases reached a similar legal conclusion whereby attempts by a state commission to assert indirect jurisdiction over wholesale rates by investigating the reasonableness of the wholesale costs of local utilities would effectively undermine the Supremacy Clause and other federal preemption principles. This legal conclusion was embraced in the seminal United States Supreme Court case, *Nantahala Power & Light Co. v. Thornburg*.⁸

The Court in *Nantahala* stated that once FERC sets the wholesale rate, a state may not conclude that the FERC-approved wholesale rate is unreasonable when setting retail rates.⁹ The Narragansett doctrine is derived from the filed rate doctrine, which the Court in *Nantahala* expanded to include interference in any manner with federal regulatory authority over wholesale utility rates.¹⁰ As explained by the Court, that doctrine ensures that purchasers of wholesale power at rates regulated by the FERC can fully recover the costs incurred by their payment of just and reasonable FERC-set rates through their retail rates.¹¹ The Court went on to state that

⁴ *Id.*

⁵ *Id.* at 1362, 565-66 (citations omitted).

⁶ *Id.*

⁷ See *Northern States Power Co. v. Hagene*, 314 N.W.2d 32 (N.D. 1981); *Northern States Power Co. v. Minnesota Public Utilities Commission*, 344 N.W.2d 374 (Minn.), cert. denied, 467 U.S. 1256 (1984).

⁸ 476 U.S. 953, 106 S. Ct. 2349 (1986).

⁹ *Id.* at 966, 2357.

¹⁰ *Id.*

¹¹ *Id.* at 970, 2358-59.

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when FERC sets a wholesale rate between the seller and purchaser of power, a state may not exercise its jurisdiction over retail rates to prevent the purchaser from recovering the costs of paying the FERC-approved rate. Such “trapping” of costs is prohibited under the Narragansett doctrine.¹²

Based on the foregoing, the PUC does not have the authority to disallow the Company's recovery of its transmission costs; however, the PUC does have the authority to determine how those costs will be allocated and recovered among the Company's retail customers through the retail rates. Please see Schedule JAL-10 for the allocation of the forecasted transmission expense to each customer rate class and the calculation of the individual base transmission charges.

¹² *Id.*

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.

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



Joanne M. Scanlon

March 12, 2015

Date

**National Grid – 2015 Annual Retail Rate Filing - Docket No. 4554
Service List Updated 2/16/15**

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