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September 6, 2016

**VIA COURIER & ELECTRONIC MAIL**

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

**RE: Docket 4627 – The Narragansett Electric Company d/b/a National Grid Review of Precedent Agreement with Algonquin Gas Transmission LLC for Capacity on the Access Northeast Project Pursuant to R.I.G.L. § 39-31 et seq. National Grid's Opposition to Conservation Law Foundation's Motion to Dismiss and Close Docket and Memorandum of Law in Support of Objection**

Dear Ms. Massaro:

On behalf of National Grid[1], I enclose the original and three (3) copies of the Company's Opposition to the Motion of Conservation Law Foundation to Dismiss the Company's filing and close the above-referenced docket. Also enclosed are the original and three (3) copies of the National Grid's Memorandum of Law in support of its Objection.

Thank you for your attention to this transmittal. If you have any questions concerning this filing, please contact me at (617) 951-1400.

Very truly yours,

John K. Habib

John K. Habib (RI Bar #7431)

Enclosures

cc: Docket 4627 Service List

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

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

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| **In Re: Review of The Narragansett Electric Company d/b/a National Grid's Request for Approval of a Gas Capacity Contract and Cost Recovery Pursuant to R.I. Gen. Laws § 39-31-1 to 9** | ) | **Docket No. 4627** |

**THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID'S OPPOSITION TO CONSERVATION LAW FOUNDATION'S MOTION TO DISMISS AND CLOSE THE DOCKET**

Pursuant to Rule 1.15(d) of the Rhode Island Public Utilities Commission's Rules of Practice and Procedure (PUC Rules), National Grid[1] opposes the Motion to Dismiss and to Close the Docket (Motion) filed by Conservation Law Foundation (CLF). For the reasons set forth in the accompanying memorandum of law, the Motion should be denied because: (1) CLF fails to meet the standard for summary disposition set forth in the Rhode Island Public Utilities Commission (PUC) Rule 1.15(e) because CLF's Motion raises questions of material fact barring summary disposition; (2) the Company's filing is wholly consistent with the statutory directive under which it is proposed, R.I. Gen. Laws § 39-31-1 et seq. (the Affordable Clean Energy Security Act (ACES)), and any claim to the contrary is unfounded; and (3) the Company's filing does not violate the Rhode Island Restructuring Act.

National Grid, therefore, respectfully requests that the Rhode Island Public Utilities Commission deny the Motion to Dismiss and Close the Docket filed by CLF pursuant to PUC Rule 1.15(a).

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

Respectfully submitted,

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

By its attorneys,

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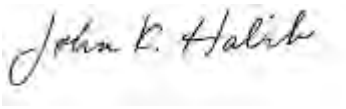

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Dated: September 6, 2016

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

| | | |
|---|---|---|
| **In Re: Review of The Narragansett Electric Company d/b/a National Grid's Request for Approval of a Gas Capacity Contract and Cost Recovery Pursuant to R.I. Gen. Laws § 39-31-1 to 9** | ) | **Docket No. 4627** |

**MEMORANDUM OF LAW IN SUPPORT OF THE NARRAGANSETT ELECTRIC COMPANY d/b/a NATIONAL GRID'S OPPOSITION TO (1) MOTION TO DISMISS AND CLOSE THE DOCKET BY CONSERVATION LAW FOUNDATION**

National Grid[1] submits this memorandum of law in support of its opposition to the Motion to Dismiss and Close the Docket filed by Conservation Law Foundation (CLF) (the Motion). The Company opposes CLF's Motion to Dismiss on grounds that: (1) CLF raises questions of material fact and therefore fails to meet the standard for summary disposition under Rhode Island Public Utilities Commission (RIPUC) Rule 1.15(e); (2) the Company's filing is wholly consistent with the statutory mandate under which it is proposed, R.I. Gen. Laws § 39-31-1 et seq. (the Affordable Clean Energy Security Act of 2014 (ACES)); and (3) the Company's filing does not violate R.I. Gen. Laws § 39-1 et seq., the Rhode Island Restructuring Act. For the reasons set forth herein, CLF's Motion should be denied.

## I. BACKGROUND

The ACES Statute is a statutory scheme enacted by the legislature in 2014 to remedy "significant short- and long-term energy system challenges that may undermine the reliable operation of the bulk electric system and spur unsustainable price volatility" in Rhode Island and New England. R.I. Gen. Laws § 39-31-1(1). To remedy these challenges, the legislature expressly authorized National Grid in Section 39-31-6 of the ACES Statute to file a proposal

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

with the RIPUC to enter into long-term contracts for natural gas pipeline capacity. Specifically, Section 39-31-6(v) states that electric distribution utilities as defined in § 39-1-2(12), as well as natural gas utilities as defined in § 39-1-2(20), are authorized to voluntarily file proposals:

> to enter into long-term contracts for natural-gas pipeline infrastructure and capacity that are commercially reasonable and advance the purposes of this chapter at levels beyond those commitments necessary to serve local gas-distribution customers, and may do so either directly, or in coordination with, other New England states and instrumentalities; utilities; generators; or other appropriate contracting parties.

R.I. Gen. Laws § 39-31-6(v); see also R.I. Gen. Laws § 39-31-5(2) (authorizing the Company to procure incremental, natural gas infrastructure and capacity into New England to help strengthen energy system reliability and facilitate the economic interests of the state and its ratepayers). Consistent with Section 39-31-6, on June 30, 2016, National Grid filed its proposal for approval of a precedent agreement with Algonquin Gas Transmission LLC that would allow National Grid to purchase gas capacity on the Access Northeast Project (ANE Project) (Precedent Agreement) as part of a regional energy solution.

Within two days of the Massachusetts Supreme Judicial Court's (SJC) finding that the Massachusetts Department of Public Utilities (MDPU) does not have authority under M.G.L. c. 164, §94A to review and approve precedent agreements entered into by the Massachusetts electric utilities for gas capacity on the ANE Project, CLF announced its intention to file a motion to dismiss this proceeding.[2] On August 22, 2016, CLF filed its Motion to Dismiss and Close the Docket.[3]

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[2] Engie Gas & LNG, LLC v. Dep't of Pub. Utilities, No. SJC-12-51 and Conservation Law Foundation v. Dep't of Pub. Utilities, No. SJC-12-52 (August 17, 2016) (collectively, Engie).

[3] The August 22, 2016 motions to withdraw filed by National Grid's Massachusetts affiliates and Eversource Energy in D.P.U. 16-05 and 15-181, respectively, are pending before the MDPU.

CLF asserts that the Rhode Island proceeding should be dismissed because the SJC determined the MDPU lacks authority under Section 94A of the Massachusetts General Laws (a statute that bears no similarity to the statutory scheme established in R.I. Gen. Laws § 39-31-1 et seq.) to approve the petitions of National Grid's Massachusetts affiliates and Eversource Energy to enter into precedent agreements for gas capacity on the ANE Project. In contrast to the SJC's interpretation of Section 94A in Massachusetts, however, the Rhode Island legislature granted the RIPUC express statutory authority under Section 6 of the ACES Statute to review long-term contracts for natural-gas pipeline infrastructure and capacity; National Grid's Precedent Agreement with Algonquin Gas Transmission LLC to purchase gas capacity on the ANE Project fits squarely within the Rhode Island statute. Moreover, as the ACES Statute was enacted in 2014, nearly twenty years after the Rhode Island Restructuring Act of 1996, the express statutory authority in R.I. Gen. Laws § 39-31-6 defeats CLF's spurious argument that the Company's petition is inconsistent with the principles and goals of the Restructuring Act.

CLF further argues that without the Massachusetts electric distribution companies' precedent agreements, the Company's filing in Rhode Island is "fundamentally" altered and must be dismissed. CLF asserts that this conclusion is undisputed and, therefore, summary disposition is appropriate. CLF's Motion should be denied because National Grid roundly disputes the assertion that its filing would be "fundamentally altered" if the Massachusetts electric distribution companies were not to participate in the ANE Project. Further, contrary to CLF's claim that no issues of material fact exist, the Motion raises several issues of fact regarding the Company's petition that can only be resolved through discovery, testimony, evidentiary hearings, including opportunity for cross examination and rebuttal testimony, and briefing to marshal the

evidence and argue questions of law. To dismiss the Company's filing at this time would be premature and not in the best interests of the Company's customers.

The ACES Statute sets forth the criteria for the RIPUC's approval of the Company's filing, including advisory opinions to be provided by the Rhode Island Department of Environmental Management (DEM), Commerce Corporation, and Office of Energy Resources (OER). R.I. Gen. Laws § 39-31-6(vi)(I),(II),(III). These advisory opinions are due to the RIPUC on September 30, 2016.[4] After reviewing these advisory opinions and all evidence presented in the proceeding, the RIPUC may approve the Company's proposed Precedent Agreement if the RIPUC determines that: "(A) [t]he contract is commercially reasonable; (B) the requirements for the solicitation have been met; (C) the contract is consistent with the region's greenhouse gas reduction targets; and (D) the contract is consistent with the purposes of this chapter." R.I. Gen. Laws § 39-31-6(1)(vi)(C). At this stage of the proceeding, discovery is ongoing, no advisory opinions have been filed and evidentiary hearings have yet to be held. Therefore, as there are numerous issues of fact to be litigated, it would be inappropriate for the RIPUC to grant CLF's Motion based on CLF's unsupported allegations without affording the Company an opportunity to respond on the record to any evidence CLF seeks to introduce in this matter.

## II. LEGAL STANDARD

RIPUC Rule 1.15(e) provides that any party "may file a motion for summary disposition of all or part of the rate tariff filing and if the RIPUC determines that there is no genuine issue of fact material to the decision, it may summarily dispose of all or part of the rate tariff filing."

[4] A revised procedural schedule for this proceeding was established at the procedural conference held on August 25, 2016.

## III. ARGUMENT

The Company objects to the Motion for Summary Disposition for three reasons. First, the Motion presents issues of material fact many of which the Company disputes; the Motion is based on unproven facts material to the RIPUC's decision and, as a result, the Motion fails to meet the standard for summary disposition under RIPUC Rule 1.15(e). Second, the Company's request for approval of the ANE Project Precedent Agreement is wholly consistent with the express statutory directives in the ACES Statute, and any claim to the contrary is unfounded. Lastly, well-established principles of statutory construction defeat CLF's claim that the ACES Statute is inconsistent with the Rhode Island Utility Restructuring Act of 1996. Moreover, consistency with the Restructuring Act is a legal issue that should be determined through a fully litigated proceeding where National Grid can present evidence demonstrating that the incremental gas capacity to be procured from ANE does not constitute a "generation facility," as well as legal arguments. Accordingly, the RIPUC should deny CLF's Motion for Summary Disposition.

### A. The Motion Fails To Meet The Standard For Summary Disposition

To obtain summary disposition, the moving party has the burden to show that there is no genuine issue of material facts in the record that could support approval of the non-moving party's proposed filing or portion thereof. In Re: Block Island Power Company General Rate Filing, Docket No. 3655. To decide whether Summary Disposition in this proceeding is appropriate, the RIPUC must determine whether there are no material issues of fact regarding whether the Precedent Agreement is: (a) commercially reasonable; (b) satisfies the solicitation requirements of the ACES Statute; (c) is consistent with the region's greenhouse gas reduction

targets; and (d) is consistent with the purpose of the ACES Statute. R.I. Gen. Laws § 39-31-6(III)(C)(vii).

CLF's Motion claims that there are no material facts in dispute (see Motion at 4). However, the Motion relies on several arguments that present material issues of fact. For example, CLF's Motion alleges that if the ANE Project were to move forward without contract approval in all New England States, the costs and benefits of the ANE Project presented in the Company's initial filing would be fundamentally altered (see id.). The impact on the costs and benefits of the ANE Project for Rhode Island customers if the Massachusetts electric distribution companies were not to participate is a material issue of fact. CLF also argues that the Company is asking Rhode Island customers to subsidize the benefits of the ANE Project for customers in Massachusetts (see Motion at 7). Whether Rhode Island ratepayers will bear a disproportionate share of costs of the ANE Project if the Massachusetts electric utilities were not to participate is a material issue of fact.

CLF's bald conclusions necessarily require a full investigation and review of the facts presented by National Grid's filing and CLF's factual assertions in the Motion. As National Grid disputes the assertions made by CLF, due process requires the Company be afforded an opportunity to be heard, and that these assertions be fully litigated before the RIPUC makes any determination. The benefits of the ANE Project, including whether the project is "commercially reasonable," go to the heart of the standard of review set forth in the ACES Statute and are therefore material to the RIPUC's decision. This finding is so important that Section 3 of the ACES Statute specifically states that "[i]f there is a dispute about whether any terms or pricing are commercially reasonable, the commission shall make the final determination after evidentiary hearings." (emphasis added).

The term "commercially reasonable" as set forth in the ACES Statute requires a finding by the RIPUC that "the total energy security, reliability, environmental and economic benefits to the state of Rhode Island and its ratepayers exceed the costs of such projects." R.I. Gen. Laws. § 39-31-3. As Engie is a Massachusetts case, and non-binding on the RIPUC, the RIPUC has full authority under R.I. Gen. Laws. § 39-31-6 to determine the costs and benefits of the ANE Project for Rhode Island customers, independently of the SJC's findings in Engie. Moreover, the narrow issues before the SJC in Engie were: (1) whether the MDPU was authorized under the plain language of G.L. c.164, §94A to approve long-term contracts entered by electric distribution companies for gas capacity; and (2) whether such approval would be consistent with the Massachusetts Restructuring Act.[5] Unlike Engie, it is not necessary for the Rhode Island RIPUC to analyze the legislative history of ACES or to resort to doctrines of statutory interpretation to determine legislative intent because R.I. § 39-3-6 is clear on its face and expressly authorizes the RIPUC to review long-term contracts for natural-gas pipeline infrastructure and capacity entered into by electric distribution utilities as defined in § 39-1-2(12), as well as natural gas utilities. Furthermore, as the ACES statutory scheme was enacted in 2014 nearly 20 years after the Rhode Island Restructuring Act of 1996, the authority expressly granted to the RIPUC by the legislature in Section 6 of the ACES defeats CLF's spurious argument that the Company's petition is inconsistent with the Restructuring Act. Finally, because the SJC interpreted Section 94A as precluding electric companies from contracting for gas capacity, it not did not reach whether approval of such contracts may be in the best interest of Massachusetts customers. Accordingly, Engie is inapposite to the current proceeding before the RIPUC.

Notwithstanding the relevance of the Engie decision to this proceeding, material questions of fact remain that must be decided under Rhode Island law and prohibit granting

[5] Massachusetts Statute 1997, c 164.

CLF's Motion. The ACES Statute does not require that all New England states share in the costs of the ANE Project but rather that the RIPUC make a determination that the Precedent Agreement is "consistent with the purposes of this chapter." R.I. Gen. Laws § 39-31-6. Even if Massachusetts ultimately does not participate in the ANE Project, the Company's petition warrants significant investigation and review under the ACES statute. The purpose of the ACES Statute includes ensuring that the benefits and costs of energy infrastructure procured pursuant to the ACES Statute be shared "appropriately" among the New England states. R.I. Gen. Laws § 39-31-2.

Similarly, the recent decision issued by the Federal Energy Regulatory Commission (FERC) in Docket No. RP 16-618-000[6] (FERC Decision) precludes the RIPUC from granting CLF's Motion because the FERC Decision raises additional issues of fact that the Company intends to address during this proceeding. Although FERC rejected Algonquin's request for a blanket exemption from FERC's bidding requirements, FERC did approve an exemption from bidding requirements for release by electric distribution companies (EDCs) to an asset manager required to use the released capacity to carry out the EDC's obligations under a state regulated electric reliability program. FERC Decision at 11. The impact of the FERC Decision on the benefits of the Precedent Agreement is an issue to be considered during discovery and evidentiary hearings, but do not necessitate dismissal of the Company's filing. The Company noted in its initial testimony that without FERC approval of its proposal the net benefits could be changed; however, the Company would dispute any allegation that the FERC Decision

[6] In Docket No. RP 16-168-000 Algonquin proposed a new section of its General Terms and Conditions tariff, Section 14.16, to permit electric distribution companies that contract for firm transportation capacity on Algonquin's pipeline as part of a state-regulated electric reliability program to make capacity releases without complying with FERC's capacity release bidding requirements.

eliminates any benefits. Thus, the net benefits of the Precedent Agreement remains an issue of fact for consideration by the RIPUC.

Lastly, the Company has submitted extensive support for its assertion that the ANE Project Precedent Agreement will provide net benefits to Rhode Island ratepayers. CLF has presented no evidence disproving this assertion. As set forth in the Company's initial filing, the Precedent Agreement includes numerous protections for Rhode Island ratepayers, including a cost cap provision (see e.g., Schedule NG-TJB/JEA-1), that allow the RIPUC to determine that the costs (and benefits) of the ANE Project are being shared "appropriately" among Rhode Island customers and the customers from other New England states that continue to pursue contract approval for the ANE Project (e.g., Connecticut, Maine, and New Hampshire).

CLF's Motion only demonstrates that parties to this proceeding disagree as to whether the Precedent Agreement satisfies the ACES Statute standard of review and illustrates why the Company's filing should not be rejected as a matter of law. Demonstrating that the costs and benefits of the ANE Project Precedent Agreement remain unresolved is not a valid reason for the RIPUC to reject the Company's filing pursuant to a Motion for Summary Disposition. In sum, it has not been proven nor is it undisputed as to whether the evidence shows that the ANE Project costs and benefits are shared appropriately among the New England States. This is precisely why summary disposition of the Precedent Agreement is not appropriate and must be denied. The RIPUC cannot simply accept the allegations in CLF's Motion on their face and dismiss the Precedent Agreement as a matter of law without providing National Grid an opportunity to dispute these assertions and prove its case through discovery, rebuttal testimony and evidentiary hearings. Accordingly, the arguments underlying the Motion are improper bases to support summary disposition under Rule 1.15(e) that should be rejected by the RIPUC.

### B. The Precedent Agreement is Consistent with the ACES Statute

To the extent that the Motion to Dismiss can be construed as a request to dismiss the Precedent Agreement because it is inconsistent with the statutory directives under which it is proposed, R.I. Gen. Laws § 39-31, such claim is directly contrary to the evidence in the record and misinterprets the legal standard under the ACES Statute.

The ACES Statute authorizes the Company, as an electric distribution company, to propose a long-term contract for natural gas pipeline infrastructure and capacity that is commercially reasonable and that advances the purposes of the ACES Statute. R.I. Gen. Laws § 39-31-6(1)(v). The Company is permitted to do so "either directly, or in coordination with, other New England states and instrumentalities; utilities; generators; or other contracting parties." Id.

The Precedent Agreement is the Company's proposal for a long-term contract for natural gas pipeline infrastructure and capacity. The Company has filed testimony and supporting schedules that would allow the RIPUC to make a determination as to the commercial reasonableness of the Precedent Agreement (see e.g., Testimony of Timothy J. Brennan and John E. Allocca). The ANE Project was solicited through a regional solicitation process but has been presented here by the Company as an independent filing as permitted by the ACES Statute. While CLF is correct that the Company has provided testimony asserting that regulatory approval of ANE Project capacity by other New England states is necessary for the ANE Project to move forward, there is nothing in the record to suggest that without participation by the Massachusetts EDCs the ANE Project cannot move forward.[7] As discussed at the procedural conference referenced in CLF's Motion, other New England States are currently reviewing

[7] This argument also ignores the ANE Project's sponsor's commitment to move forward with the project despite the SJC Decision. In a letter to Commonwealth Magazine dated August 24, 2016, the sponsors of the ANE Project reaffirmed their commitment and stated that "[n]o individual state jurisdiction will pay more than its pro-rata share of the project and approvals may be conditioned to that effect." (http://commonwealthmagazine.org/environment/gas-pipeline-firm-says-its-full-speed-ahead/).

contracts for capacity on the ANE Project. Therefore, the ANE Project and Precedent Agreement remain part of a regional approach to advance the strategic investment in energy infrastructure and energy resources consistent with the purposes of the ACES Statute. R.I. Gen. Laws § 39-31-2(2).

Accordingly, the Company's initial filing demonstrates that the ANE Project Precedent Agreement is consistent with the purpose of the ACES Statute to provide a regional solution that advances strategic investment in energy infrastructure and energy resources. Any claim to the contrary is premature, unfounded and should be rejected. At the very least, the evidence provided in the Company's initial filing demonstrates that there are matters of material fact to the RIPUC's decision in this docket as to whether the Precedent Agreement is consistent with the standard of review set forth in the ACES Statute and, as a result, the Company's filing cannot be summarily disposed of at this time.

### C. The ACES Statute Supersedes the 1996 Restructuring Act

Lastly, CLF argues that dismissing the Company's petition would "further the policies and principles of Rhode Island's Utility Restructuring Act of 1996" (CLF Motion at 8). CLF alleges that the Restructuring Act aims to protect ratepayers from the very risks that are allegedly presented in National Grid's filing. In support of this argument, CLF relies almost exclusively on the Massachusetts opinion in Engie wherein the SJC found that the Massachusetts restructuring act did not authorize the MDPU to approve gas capacity contracts entered by electric distribution companies (CLF Motion at 8-10). CLF's argument is flawed because it ignores the ACES statute and relies disproportionately on a non-binding decision of a foreign court. The ACES Statute provides explicit authority for the RIPUC to review and approve the Company's petition while there is no comparable statute currently enacted in Massachusetts.

Moreover, in Engie, the SJC noted that the MDPU could deviate from the Massachusetts Restructuring Act if expressly authorized by the legislature, but found no such express authority existed for the MDPU to review gas capacity contracts entered by electric distribution companies. See Engie, slip op. at 34-35. In contrast, the Rhode Island ACES Statute of 2014 is entirely consistent with, and advances the intent of, the Rhode Island Restructuring Act of 1996, rendering moot the CLF's spurious attempt to extend the SJC's reasoning under the applicable Massachusetts statutes to the current proceeding in Rhode Island.

Section 1 of the Rhode Island Restructuring Act asserts that the policy of Rhode Island is:

> to provide fair regulation of public utilities and carriers in the interest of the public, to promote availability of adequate, efficient and economical energy, communication, and transportation services and water supplies to the inhabitants of the state, to provide just and reasonable rates and charges…

R.I. Gen. Laws § 39-1-1. In 1996, the legislature found "that lower retail electricity rates would promote the state's economy and the health and general welfare of the citizens of Rhode Island." When enacting the ACES statute eighteen years later, in 2014, the legislature similarly determined that the current regulatory climate was not promoting economical electricity rates. Specifically, the legislature noted that Rhode Island and

> New England face significant short and long-term energy system challenges that may undermine the reliable operation of the bulk electric system and spur unsustainable levels of price volatility, and that these challenges may have a substantial impact on energy affordability for ratepayers and undermine economic competitiveness of our state by serving as a detriment to capital investment and job growth.

R.I. Gen. Laws § 39-31-1(1). Accordingly, to remedy the challenges faced by the electric system throughout the region the legislature granted the RIPUC express statutory authority in R.I. Gen. Laws § 39-31-6 to review long-term contracts for natural-gas pipeline infrastructure and capacity

entered into by electric, or gas distribution companies. CLF's assertion that the ACES Statute enacted for the express purpose of remedying these significant challenges is inconsistent with the earlier Restructuring Act is baseless.

According to well established principles of statutory construction, any inconsistency between two statutes should be resolved by giving effect to the later enacted statute, in this case, the ACES statutory scheme in R.I. Gen. Laws § 39-31-1et seq. See Brennan v. Kirby, 529 A.2d 633, 637 (R.I. 1987); see also Falstaff Brewing Corp., 637 A.2d 1047, 1051 (1994) (citing Davis v. Cranston Print Works Co., 86 R.I. 196, 199 (1957)). Furthermore, the legislature was obviously aware of the Rhode Island Restructuring Act when enacting the ACES Statute and it , therefore, only be assumed that the legislature intended to alter the regulatory framework created under the Restructuring Act to address the issues currently facing Rhode Island. Based on the foregoing, there can be no assertion that the Company's filing is contrary to the Restructuring Act.

Nevertheless, under RIPUC Rule 1.15(e), the RIPUC's decision on CLF's Motion is limited to whether there is any genuine issue of fact material to show that the Company's filing is consistent with the ACES Statute. The RIPUC's statutory authority to approve the Company's proposed Precedent Agreement is not appropriate for summary disposition but is an issue of law to be litigated and briefed in this proceeding. This legal issue has no bearing on whether National Grid has demonstrated a material issue of fact regarding whether the Precedent Agreement is consistent with the statutory requirements of the ACES Statute. See Docket No. 3655 at 5. As such, any claims made by CLF that the Precedent Agreement violates the Restructuring Act should not be decided by the RIPUC under the summary disposition standard of review.

## IV. CONCLUSION

For the reasons set forth above, the Company opposes the Motion for Summary Disposition filed by the Conservation Law Foundation and respectfully requests that the RIPUC deny such Motion.

Respectfully submitted,

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

By its attorneys,

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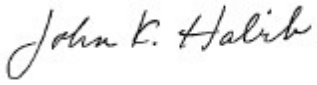

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Dated: September 6, 2016