

KEEGAN WERLIN LLP

ATTORNEYS AT LAW

99 HIGH STREET, Suite 2900

BOSTON, MASSACHUSETTS 02110

(617) 951-1400

TELECOPIER:

(617) 951-1354

July 26, 2018

VIA COURIER & ELECTRONIC MAIL

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

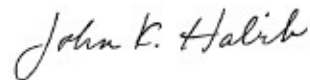
RE: Docket No. 4822: Solicitation of Long-Term Contracts for Renewable Energy and Renewable Energy Certificates (“RECs”), Pursuant to R.I. Gen. Laws § 39-26.1-1 et seq National Grid’s Objection to Pre-Filed Direct Testimony and Memorandum of Law in Support of Objection

Dear Ms. Massaro:

On behalf of National Grid¹, I enclose ten (10) copies of the Company’s Objection to Pre-Filed Direct Testimony by Vineyard Wind, LLC. Also enclosed are ten (10) copies of the Company’s Memorandum of Law in support of its Objection.

Thank you for your attention to this transmittal.

Very truly yours,



John K. Habib

Enclosures

cc: Docket 4822 Service List
Linda George, Esq.

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

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.

John K. Habib

July 26, 2018

John K. Habib

Date

Docket No. 4822 – National Grid – RFP for Long-Term Contracting for Renewable Energy and RECs up to 400 MW

Service List updated 6/22/18

Name/Address	E-mail Distribution	Phone
National Grid John K. Habib, Esq. Keegan Werlin LLP 99 High Street, Suite 2900 Boston, MA 02110	jhabib@keeganwerlin.com ;	617-951-1354
	kmahoney@keeganwerlin.com ;	
	Laura.Bickel@nationalgrid.com ;	
	Joanne.scanlon@nationalgrid.com ;	
Jon Hagopian, Esq. Division of Public Utilities & Carriers 89 Jefferson Blvd. Warwick, RI 02888	Jon.hagopian@dpuc.ri.gov ;	401-784-4775
	John.bell@dpuc.ri.gov ;	
	Jonathan.Schrag@dpuc.ri.gov ;	
	Al.contente@dpuc.ri.gov ;	
Ellen Cool Levitan & Associates	egc@levitan.com ;	
James Crowley, Esq. Conservation Law Foundation 235 Promenade St., Suite 560 Providence, RI 02908	jcrowley@clf.org ;	401-228-1905
	jelmer@clf.org ;	
NextEra Energy Resources, LLC Joseph A. Keough Jr., Esquire Keough + Sweeney, Ltd. Brian J. Murphy Esq. NextEra Energy Resources, LLC	jkeoughjr@keoughsweeney.com ;	401-724-3600
	Brian.J.Murphy@nexteraenergy.com ;	
FirstLight Power Resources Edward D. Pare, Esq.	EPare@brownrudnick.com ;	401-276-2639
	JReyes@brownrudnick.com ;	
	PAfonso@brownrudnick.com ;	

Jesse S. Reyes, Esq. Brown Rudnick LLP	Marc.Silver@firstlightpower.com ;	
Marc Silver, FirstLight Power Resources	Len.Green@firstlightpower.com ;	
Vineyard Wind, LLC Seth Handy, Esq. Handy Law, LLC	seth@handylawllc.com ;	401-626-4839
Emily Rochon, Vineyard Wind LLC	erochon@vineyardwind.com ;	
Office of Energy Resources Andrew Marcaccio, Esq. Carol Grant, Commissioner Christopher Kearns, OER Nicholas Ucci, OER	Andrew.Marcaccio@doa.ri.gov ;	
	Christopher.Kearns@energy.ri.gov ;	
	Nicholas.Ucci@energy.ri.gov ;	
	Carol.Grant@energy.ri.gov ;	
File an original & 9 copies w/: Luly E. Massaro, Commission Clerk Linda George, PUC Counsel Public Utilities Commission 89 Jefferson Blvd. Warwick, RI 02888	Luly.massaro@puc.ri.gov ;	401-780-2017
	Linda.george@puc.ri.gov ;	
	Alan.nault@puc.ri.gov ;	
	Todd.bianco@puc.ri.gov ;	
	Cynthia.WilsonFrias@puc.ri.gov ;	
	Margaret.Hogan@puc.ri.gov ;	
Francis Fullaro, Executive Director RENEW Northeast	fpullaro@renew-ne.org ;	646-734-8768
Melissa Reynolds, Director Bus. Dev.	Melissa.reynolds@eversource.com ;	860-728-4637
David Peloquin, Eversource	david.peloquin@eversource.com ;	860-665-3554
Steven Zuretti, Director, Gov. Affairs Brookfield Renewable	Steven.Zuretti@brookfieldrenewable.com ;	310-849-3210
Sebastian Hald Buhl, Orsted	sehb@orsted.com ;	857-260-8362
Frederick Zalcman, Orsted	FRZAL@orsted.com ;	617-792-4333
Liam Paskvan	lpaskvan@PierceAtwood.com ;	207-791-1306
Michelle Carpenter, Green Development	mc@green-ri.com ;	401-295-4998
Buzz Becker, Hexagon Energy	bbecker@hexagon-energy.com ;	434-326-4623
Seth Handy, Esq.	seth@handylawllc.com ;	401-626-4839
Ram Seetharaman, Solar Micronics	ramsee72@gmail.com ;	
Ganesan Visvabharathy, Solar Micronics	visva@solarmicronics.co ;	
Yolanda Yolanda, Solar Micronics	yolanda@solarmicronics.co ;	
Jamie Dickerson, NECEC	jdickerson@necec.org ;	
Janet Besser, NECEC	jbesser@necec.org ;	

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

**Solicitation of Long-Term Contracts for Renewable
Energy and Renewable Energy Certificates, pursuant
To R.I. Gen. Laws § 39-26.1-1 et seq.**

Docket No. 4822

**THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID'S
OBJECTION TO PRE-FILED DIRECT TESTIMONY BY VINEYARD WIND, LLC**

Pursuant to Rule 1.15(a) of the Rhode Island Public Utilities Commission's Rules of Practice and Procedure (PUC Rules), National Grid¹ objects to the pre-filed direct testimony of Dan Koehler on behalf of Vineyard Wind, LLC (Vineyard Wind). For the reasons set forth in the accompanying memorandum of law, the pre-filed direct testimony violates PUC Rule 1.20(e)(4) and therefore should be given no weight.

Rule 1.20(e)(4) states that the filing of testimony and exhibits by a party shall be made in accordance with the pre-hearing conference schedule (Procedural Schedule), if one has been issued. The PUC issued a Procedural Schedule on May 10, 2018, which allowed for motions to intervene with comments, a memorandum by the Division of Public Utilities and Carriers, rebuttal memoranda by all parties, and a hearing date. The Procedural Schedule, however, does not provide an opportunity for submission of pre-filed direct testimony. As such, Vineyard Wind's pre-filed testimony is in violation of Rule 1.20(e)(4), given that it was not submitted in accordance with the Procedural Schedule.

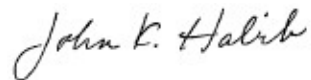
¹ The Narragansett Electric Company d/b/a National Grid (National Grid or the Company).

In order to preserve the integrity of the Procedural Schedule and PUC's Rules of Practice and Procedure, National Grid respectfully requests the PUC give no weight to the pre-filed direct testimony or, in the alternative, treat the pre-filed direct testimony similar to late-filed comments and deny Vineyard Wind the opportunity to present its witness at August 1, 2018, evidentiary hearing in this proceeding.

Respectfully submitted,

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

By its attorney,



John K. Habib, Esq. (#7431)
Keegan Werlin LLP
99 High St., 29th Floor
Boston, MA 02110
(617) 951-1400
jhabib@keeganwerlin.com

Date: July 26, 2018

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

**Solicitation of Long-Term Contracts for Renewable
Energy and Renewable Energy Certificates, pursuant
To R.I. Gen. Laws § 39-26.1-1 et seq.**

Docket No. 4822

**MEMORANDUM OF LAW IN SUPPORT OF THE NARRAGANSETT ELECTRIC
COMPANY d/b/a NATIONAL GRID'S OBJECTION TO PRE-FILED DIRECT
TESTIMONY BY VINEYARD WIND, LLC**

I. INTRODUCTION

National Grid¹ submits this memorandum of law in support of its objection to the pre-filed direct testimony of Dan Koehler by Vineyard Wind, LLC (Vineyard Wind). The Company objects to the pre-filed direct testimony on the grounds that: (1) Vineyard Wind submitted pre-filed direct testimony in violation of the Rhode Island Public Utilities Commission's Rule of Practice and Procedure (PUC Rule) 1.20(e)(4); and (2) any allowance of pre-filed direct testimony in this proceeding would trigger an opportunity for National Grid and other parties to submit written rebuttal testimony, possibly extending the Procedural Schedule and delaying resolution of this proceeding. For the reasons set forth herein, Vineyard Wind's pre-filed direct testimony should be given no weight or, in the alternative, treated as late-filed comments.

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

II. LEGAL STANDARD

PUC Rule 1.20(e)(4) provides the legal standard for direct testimony as follows: “[t]he filing and service of testimony and exhibits by the Division and any other party shall be made in accordance with the pre-hearing conference schedule, if any.”

III. ARGUMENT

A. The Pre-Filed Direct Testimony is in Violation of the Procedural Schedule

On May 10, 2018, the Rhode Island Public Utilities Commission (PUC) issued a Procedural Schedule in this proceeding. The Procedural Schedule allowed for motions to intervene with comments, a memorandum by the Division of Public Utilities and Carriers, rebuttal memoranda by all parties, and a hearing date. Several intervenors, including Vineyard Wind, filed both Initial Comments and Reply Comments in this proceeding in accordance with those due dates. The Procedural Schedule did not provide for opportunity for submission of pre-filed direct testimony by any party, including National Grid.

On July 18, 2018, however, Vineyard Wind submitted the pre-filed direct testimony of Dan Koehler, on its behalf. As noted above, PUC Rule 1.20(e)(4) requires the submission of testimony and exhibits to be filed in accordance with the Procedural Schedule. Given that the Procedural Schedule did not include opportunities for any party to submit pre-filed testimony, Vineyard Wind’s pre-filed testimony is in violation of PUC Rule 1.20(e)(4). Accordingly, National Grid respectfully requests the PUC give no weight to Vineyard Wind’s pre-filed direct testimony or, in the alternative, treat the pre-filed direct testimony similar to late-filed comments and deny Vineyard Wind the opportunity to present its witness at August 1, 2018, evidentiary hearing in this proceeding.

B. Allowance of Vineyard Wind's Pre-Filed Testimony Would Infringe Upon National Grid's Procedural and Substantive Due Process Rights

Administrative law principles address the rights of parties for both procedural and substantive due process in administrative proceedings. With respect to the submission of written testimony, when written testimony is submitted by one party, in order “to insure against prejudice of substantial right of any party”, a reciprocal opportunity must be given to other parties “to contest and rebut any evidence submitted.” 38 Gerald A. McDonough, Massachusetts Practice §7:13 (2nd ed. 2016).

If the PUC allows Vineyard Wind's pre-filed testimony to remain on the record and to be given evidentiary weight, then National Grid's procedural and substantive due process rights would be infringed upon, to the extent that National Grid and other parties are not provided an opportunity to rebut the testimony. That noted, however, National Grid supports the current Procedural Schedule issued by the PUC and does not seek to delay either the August 1, 2018 hearing in this proceeding, or the potential for a ruling on National Grid's request for proposals (RFP) at the end of the hearing, as contemplated by the Notice of Public Hearing issued on July 20, 2018.

Accordingly, National Grid would prefer to continue following the current procedural schedule by appearing at the August 1, 2018 hearing, as scheduled. The PUC can eliminate the procedural and substantive imbalance caused by Vineyard Wind's submittal, however, by giving the testimony no evidentiary weight. In the alternative, if the PUC determines that Vineyard Wind's pre-filed testimony has some value in its deliberations on the Company's RFP, it should be given no more weight than the initial and reply comments submitted by other parties to this proceeding, each of which have been submitted without the support of a witness, and thus should be treated as commentary, rather than evidence.

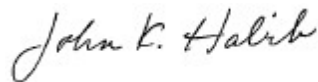
IV. CONCLUSION

For the reasons set forth above, the Company objects to the submission of pre-filed direct testimony by Vineyard Wind and respectfully requests that the PUC give no weight to the pre-filed direct testimony or, in the alternative, treat the testimony as late-filed comments in its consideration of the Company's RFP. These options will allow the PUC to reinforce the integrity of its Procedural Schedule in this proceeding and in future proceedings, and provide notice to potential parties that the PUC's Rules of Practice and Procedure should be adhered to at all times, unless granted explicit authority by the PUC to do otherwise.

Respectfully submitted,

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

By its attorney,



John K. Habib, Esq. (#7431)
Keegan Werlin LLP
99 High Street, 29th Fl
Boston, MA 02110
(617) 951-1400
Jack Habib jhabib@keeganwerlin.com

Dated: July 26, 2018