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December 3, 2020

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

Re: Exeter Renewables 1 LLC Petition for Dispute Resolution – Docket No. 5090

Dear Ms. Massaro:

On behalf of The Narragansett Electric Company d/b/a National Grid (the Company), enclosed is an original and six copies of the Company's Response to the Petition for Dispute Resolution filed by Exeter Renewables 1 LLC in the above-referenced matter.

The Company's response includes the following three exhibits:

Exhibit 1 – Conditional Interconnection Services Agreement;

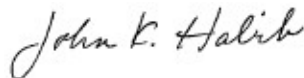
Exhibit 2 – Draft System Impact Study; and

Exhibit 3 – Final System Impact Study.

Please note that Exhibits 2 and 3 contain customer information concerning Exeter Renewables' project. The Company respectfully requests that the exhibits be treated as confidential at this time. The Company will be separately submitting a motion for protective treatment of these exhibits along with redacted copies for the public record.

Thank you for your attention to this matter. Please contact me if you have any questions.

Sincerely,



John K. Habib, Esq.

Enclosures

cc: Cindy Wilson-Frias  
Christian F. Capizzo  
Jeffrey H. Gladstone  
Frank Epps  
John Kennedy

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

Exeter Renewables 1 LLC Petition for Dispute Resolution	) ) ) ) )	Docket No. 5090
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**NATIONAL GRID’S PETITION  
FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION**

National Grid<sup>1</sup> hereby requests that the Rhode Island Public Utilities Commission (PUC) provide confidential treatment and grant protection from public disclosure of certain confidential, competitively sensitive, and proprietary information submitted in this proceeding, as permitted by PUC Rule 1.3(H) and R.I.G.L. § 38-2-1, *et seq.* National Grid further requests that, pending entry of findings pursuant to these provisions, the PUC preliminarily grant National Grid’s request for confidential treatment pursuant to Public Information, PUC Rule 1.3(H)(2).

**I. BACKGROUND**

On November 18, 2020, Exeter Renewables 1 LLC (Exeter) submitted a Petition for Dispute Resolution (Petition) concerning terms of a Conditional Interconnection Service Agreement (ISA) executed by National Grid and Exeter. In accordance with Section 9 of National Grid’s Standards for Connecting Distributed Generation, RIPUC No. 2180, National Grid is submitting a response to Exeter’s Petition on December 3, 2020. Together with its response, National Grid is submitting three relevant exhibits, including the Conditional ISA and a draft and final version of the applicable System Impact Study (SIS) for the Exeter’s project. Those exhibits have been marked as Exhibit 1, 2 and 3, respectively, as part of National Grid’s

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

response to the Petition.

Exhibits 2 and 3 of National Grid's response contains certain information regarding Exeter's project, including single line diagrams and other engineering documents, which may be considered confidential customer information. Accordingly, National Grid requests that the PUC give the information contained in the un-redacted versions of Exhibits 2 and 3 confidential treatment.

## **II. LEGAL STANDARD**

The PUC's Rule 1.3(H) provides that access to public records shall be granted in accordance with the Access to Public Records Act (APRA), R.I.G.L. §38-2-1 *et seq.*

Under the APRA, all documents and materials submitted in connection with the transaction of official business by an agency is deemed to be a "public record," unless the information contained in such documents and materials falls within one of the exceptions specifically identified in R.I.G.L. §38-2-2(4). Therefore, to the extent that information provided to the PUC falls within one of the designated exceptions to the public records law, the PUC has the authority under the terms of APRA to deem such information to be confidential and to protect that information from public disclosure. In that regard, R.I.G.L. §38-2-2(4)(B) provides that the following types of records shall not be deemed public:

Trade secrets and commercial or financial information obtained from a person, firm, or corporation which is of a privileged or confidential nature.

The exception "protects persons who submit financial or commercial data to government agencies from the competitive disadvantages which would result from its publication." Critical Mass Energy Project v. Nuclear Regulatory Commission, 975 F.2d 871, 873 (D. D.C. Cir. 1992); see also Providence Journal Company v. Convention Center Authority, 774 A.2d 40 (R.I. 2001) (adopting Critical Mass). The Rhode Island Supreme Court has held that this confidential

information exemption applies where disclosure of information would be likely to either: (1) impair the Government's ability to obtain necessary information in the future; or (2) cause substantial harm to the competitive position of the person from whom the information was obtained. Providence Journal, 774 A.2d at 47 (emphasis added).

The second prong of the Providence Journal test has been interpreted to not require “a sophisticated economic analysis of the likely effects of disclosure.” New Hampshire Right to Life v. US Dept. of Health and Human Services, 778 F. 3d 43, 50 (1st. Cir. 2015) (quoting Pub. Citizen Health Research Grp., 704 F. 2d 1280, 1291 (1983)). The party opposing disclosure must establish “actual competition and a likelihood of substantial competitive injury” to bring the information under the confidential exemption. Id. In determining whether information is confidential the court should not limit its assessment of bidding information in a singular ad-hoc manner, but rather should acknowledge the likelihood of additional bids in the future. Id., at 51. As discussed further below, the Confidential Information here should be protected because it is commercial or financial information that, if disclosed, would be likely to cause substantial harm to the competitive position of the persons from whom the information was obtained.

### **III. BASIS FOR CONFIDENTIALITY**

Exhibits 2 and 3 of National Grid's response to Exeter's Petition consists of the draft and final SIS for Exeter's project. Appendix C of each SIS includes customer site and single line diagrams prepared by Exeter and submitted to National Grid in connection with Exeter's interconnection application. Section 10 of the Conditional ISA executed by the parties provides that National Grid “shall maintain confidentiality of all Interconnecting Customer confidential and proprietary information except as otherwise required by applicable laws and regulations, the Interconnection Tariff, or as approved by the Interconnecting Customer in the Simplified or

Expedited/Standard Application form or otherwise.” See National Grid Response to Petition, Exhibit 1 at 5. To comply with this provision and protect proprietary customer information, National Grid respectfully requests confidential treatment of Exhibit 2 and Exhibit 3.

#### **IV. CONCLUSION**

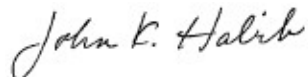
Accordingly, the Company requests that the PUC grant protective treatment above-listed confidential information.

**WHEREFORE**, the Company respectfully requests that the PUC grant its Petition for Protective Treatment as stated herein.

Respectfully submitted,

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

By its attorney,



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John K. Habib, Esq. (RI Bar #7431)  
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99 High Street, Suite 2900  
Boston, Massachusetts 02110  
(617) 951-1400

Dated: December 3, 2020

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

	)	
Exeter Renewables 1 LLC Petition for	)	
Dispute Resolution	)	Docket No. 5090
	)	

**THE NARRAGANSETT ELECTRIC COMPANY’S RESPONSE TO PETITION**

The Narragansett Electric Company d/b/a National Grid (TNEC), pursuant to Section 9.2 of the Standards for Connecting Distributed Generation, R.I.P.U.C. No. 2180 (the Tariff), hereby responds to the Petition for Dispute Resolution (Petition) filed by Exeter Renewables 1 LLC (Exeter) in the above-captioned matter.<sup>1</sup>

**I. INTRODUCTION**

This dispute concerns whether Exeter should be required to pay a Direct Assignment Facility Charge (DAF) assessed to TNEC by TNEC’s transmission service provider, New England Power (NEP) in accordance with its FERC-approved tariff, Schedule 21-NEP to the ISO-NE Open Access Transmission Tariff (OATT). The DAF charge will be assessed by NEP because Exeter’s proposed 10MW solar energy project in Exeter, Rhode Island (Project) together with another 40MW of solar projects proposed by its affiliate, Energy Development Partners (EDP) in North Kingstown, require construction of a new substation served from the transmission system in order to be safely interconnected to TNEC’s distribution system. The new substation will include transmission assets at or above 69kV, which will be operated and maintained by NEP. The DAF

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<sup>1</sup> Section 9.2(a) of the Tariff provides that “within ten business days after the written request to the Commission for dispute resolution, the other party shall also submit a summary of the situation to the Commission and provide a copy of the summary to the Requesting Party.” For organizational purposes, TNEC has set forth its specific response to each of the factual allegations stated in the Petition.

is a FERC-approved means by which NEP may recover certain costs of operating transmission assets from specific transmission customers.

The Rhode Island Public Utilities Commission (PUC or Commission) has previously acknowledged that under the filed-rate doctrine, the PUC is prohibited from reviewing the propriety of FERC-approved rates and must allow TNEC full recovery of costs properly assessed by NEP or ISO-NE to TNEC under FERC-approved tariffs. The question implicitly raised by Exeter's petition is whether the DAF charges related to its required transmission level System Modifications should be paid for by Exeter, or instead be recovered from all Rhode Island retail customers. The PUC's recent decision in Docket No. 4981, Petition of the Episcopal Diocese of Rhode Island, clearly determined that such costs should be paid by the interconnecting customer causing those costs. The PUC's decision is consistent with Section 5.4 of TNEC's Standard for Connecting Distributed Generation, R.I.P.U.C. No. 2180 (Interconnection Tariff), which provides that interconnecting customers shall be directly responsible to any affected system operator (including NEP) for the costs of any system modifications necessary to the affected systems.

Moreover, requiring Exeter to pay for the DAF charges is also consistent with the terms of the Conditional Interconnection Services Agreement (ISA) approved by the PUC in Docket No. 4956. Exeter assumed the risk that it may be assessed additional costs when it executed the Conditional ISA before all costs were known, and explicitly agreed in Section 5.1 of the Conditional ISA to be responsible for actual affected system operator costs, including operation and maintenance costs, without being subject to any cost caps or limitations.

For those reasons, and as discussed further below, the PUC should find that it is equitable, just and reasonable for Exeter to pay for the DAF charges assessed by NEP to TNEC in accordance with its FERC-approved tariffs.

## II. RESPONSE TO STATEMENT OF FACTS

TNEC responds to Exeter's "Concise Statement of the Facts" in its Petition, as follows:

1. TNEC does not dispute that the Exeter Project is a fully designed and permitted 10MW AC photovoltaic solar generating facility to be located on Ten Rod Road in Exeter, Rhode Island. TNEC does not dispute that the Project is one of fourteen solar projects with an aggregate capacity of 108 MW that will share in the construction, cost and use of a common double circuit 34.5kV distribution feeder and a new 115kV/34.5kV substation referred to as the Wickford Junction substation. TNEC states further that the Project is one of fourteen projects that will share in the construction, cost and use of the following transmission level System Modifications: (1) installation of 115kV loop tap to the new Wickford Substation; (2) installation of 115kV ring bus including breaker, disconnect switches, bus, bus insulators and wave trap, and associated site-work, grounding, foundations, structures and associated protection and control; and (3) installation of a 115kV 4-Breaker Ring Bus with protection and control, including but not limited to site work, grounding and conduits.

2. TNEC does not dispute that in addition to the Exeter Project, the four 10 MW AC Dry Bridge Solar I-IV projects and a total of 58 MW of solar projects proposed by Green Development may interconnect using the new Wickford Substation. TNEC takes no position with respect to Exeter's allegation regarding the status of permitting litigation for the Green Development projects.

3. TNEC takes no position with respect to Exeter's description of the change in control of the Dry Bridge Solar I-IV projects from EDP to an investment fund managed by Goldman Sachs Asset Management, L.P. because EDP did not provide TNEC with notice of such assignment of rights pursuant to Section 9 of the Conditional ISA.



4. TNEC does not dispute that EDP submitted an interconnection application for the Project on September 11, 2017.

5. TNEC does not dispute that it performed a common System Impact Study of the potential safety and reliability effects of interconnecting the Exeter Project, Dry Bridge Solar I-IV and Green Development projects to TNEC's sub-transmission system. In addition, TNEC does not dispute that this group of projects was subject to a separate area ASO study, designated as the Western RI Area ASO study, performed by NEP in coordination with ISO-NE. TNEC takes no position with respect to EDP's alleged reluctance to participate in the cluster ASO study.

6. TNEC does not dispute that it issued cost estimates for a detailed transmission study and a detailed engineering study of the Project and the four Dry Bridge Solar I-IV projects on September 12, 2018.

7. TNEC does not dispute that it met with EDP on or around October 17, 2018 to discuss the status of the projects.

8. TNEC does not dispute that it issued a Detailed Transmission Study Agreement and a Preliminary Substation Work Agreement for the Exeter and Dry Bridge Solar I-IV projects on or around October 31, 2018. TNEC does not dispute that EDP signed and returned the agreements on or around November 1, 2018 and that the study costs have been paid in full.

9. TNEC does not dispute that the Western RI Area ASO study was delayed due to the ISO-NE's requirement to analyze the FERC-jurisdictional offshore wind projects first, and that such delay was communicated to EDP on or around December 4, 2018.

10. TNEC does not dispute that it informed EDP on or around January 17, 2019 that the Western RI Area ASO study was delayed and, therefore, an Interconnection Service Agreement (ISA) could not be issued for the Project or Dry Bridge Solar I-IV projects.

11. TNEC does not dispute that EDP initiated dispute resolution on March 21, 2019 regarding TNEC's position that it could not issue an ISA for the Project or the Dry Bridge Solar I-IV projects while the Western RI Area ASO study was still pending and unresolved.

12. TNEC does not dispute that TNEC and EDP agreed to terms of a Conditional ISA to be executed by the parties prior to completion of the Western RI Area ASO study. TNEC developed the Conditional ISA at EDP's request to obtain an ISA in order to facilitate EDP's ability to secure financing for the projects. EDP agreed to accept the risk that additional transmission costs could be identified after execution of the Conditional ISA. The Conditional ISA was intended to: (1) acknowledge that the projects require additional analysis and/or study by Affected System operators; (2) memorialize that Exeter/EDP has requested issuance of the ISA prior to the completion of the Affected System operator(s) study; and (3) set forth the obligations and responsibilities of Exeter/EDP with respect to the Affected System operator(s) study and approvals, any modified or additional Company studies necessitated as a result of the Affected System operator(s) requirements, execution of any necessitated amendments to the ISA, and payment of all costs associated therewith. Section 5 of the ISA was revised in the Conditional ISA to provide that Exeter/EDP "shall be responsible for... any resulting Affected System operator(s) costs for its requirements, including, without limitation, modifications to the electric power system of the Affected System operator(a) **and operation and maintenance costs.**" Conditional ISA, Section 5 (emphasis added). In addition, Section 5.1 was revised to provide that "[t]he Interconnecting Customer shall be responsible for the actual Affected System operator costs, **including operation and maintenance costs**, and any additional Company costs necessitated as a result of the Affected System operator requirements, **none of which shall be subject to any cost**

**caps or limitations.** Conditional ISA, Section 5.1 (emphasis added). A copy of the executed Conditional ISA is provided as **Exhibit 1** hereto.

13. TNEC disputes Exeter’s characterization of the context in which the Conditional ISA was negotiated and agreed to by the parties. The Conditional ISA was developed at Exeter/EDP’s request and insistence to execute an ISA before all interconnection costs were known and final. Exeter/EDP assumed certain risks when it decided to accept the Conditional ISA before all costs were known. TNEC further disputes Exeter’s allegation that it “accepted the System Modification costs that were presented to Exeter by Narragansett on a take it or leave it basis...”

14. TNEC does not dispute the contents of the July 17, 2019 correspondence requesting dispute resolution assistance, as contained in Exhibit A of the Petition.

15. TNEC does not dispute the contents of the Staff Report as contained in Exhibit B of the Petition.

16. TNEC does not dispute that it issued a draft System Impact Study (SIS) for the Project on or around August 16, 2019. TNEC disputes Exeter’s characterization of the SIS. The SIS clearly identified portions of required System Modifications as “Transmission Level” work.

National Grid Sys+B8:143	Conceptual Cost +/-25% Planning Grade Cost Estimate not including Tax Liability				Associated Tax Liability Applied to Capital	Total Customer Costs includes Tax Liability on Capital Portion
	Pre-Tax Total	Capital	O&M	Removal		
NECO - Line Work, Customer Property					11.08%	Total
Equipment at Point of Common Coupling - See Note #1	\$124,873	\$124,873	\$0	\$0	\$13,836	\$138,709
<b>SUBTOTAL</b>	<b>\$124,873</b>	<b>\$124,873</b>	<b>\$0</b>	<b>\$0</b>	<b>\$13,836</b>	<b>\$138,709</b>
NECO - Line Work, Mainline					11.08%	Total
New 34.5kV Circuit #2. UG From Wickford - Customer POI. See Note #2	\$2,107,203	\$2,107,203	\$0	\$0	\$233,478	\$2,340,682
<b>SUBTOTAL</b>	<b>\$2,107,203</b>	<b>\$2,107,203</b>	<b>\$0</b>	<b>\$0</b>	<b>\$233,478</b>	<b>\$2,340,682</b>
NECO -Line Work - Transmission Level					9.90%	Total
New 115 kV Transmission Line Tap. See Note #3	\$1,819,463	\$1,777,063	\$8,623	\$33,777	\$172,197	\$1,991,661
<b>SUBTOTAL</b>	<b>\$1,819,463</b>	<b>\$1,777,063</b>	<b>\$8,623</b>	<b>\$33,777</b>	<b>\$172,197</b>	<b>\$1,991,661</b>
NECO - Substation Work (Distribution Level)					11.08%	Total
New 115 kV/34.5 kV Distribution Substation. See Note #4	\$2,926,437	\$2,926,437	\$0	\$0	\$324,249	\$3,250,687
<b>SUBTOTAL</b>	<b>\$2,926,437</b>	<b>\$2,926,437</b>	<b>\$0</b>	<b>\$0</b>	<b>\$324,249</b>	<b>\$3,250,687</b>
NECO - Substation Work Non - PTF (Transmission Level)					9.69%	Total
New 115 kV/34.5 kV Transmission Substation. See Note #5	\$10,523,563	\$10,523,563	\$0	\$0	\$1,019,733	\$11,543,297
<b>SUBTOTAL</b>	<b>\$10,523,563</b>	<b>\$10,523,563</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,019,733</b>	<b>\$11,543,297</b>
NECO - Substation Work PTF (Transmission Level)					9.90%	Total
New 115 kV/34.5 kV Transmission Substation. See Note #6	\$3,697,468	\$3,697,468	\$0	\$0	\$366,049	\$4,063,518
<b>SUBTOTAL</b>	<b>\$3,697,468</b>	<b>\$3,697,468</b>	<b>\$0</b>	<b>\$0</b>	<b>\$366,049</b>	<b>\$4,063,518</b>
	Pre-Tax Total	Capital	O&M	Removal	Tax	Total
<b>Totals</b>	<b>\$21,199,007</b>	<b>\$21,156,607</b>	<b>\$8,623</b>	<b>\$33,777</b>	<b>\$2,129,543</b>	<b>\$23,328,554</b>

A copy of the SIS is provided as **Exhibit 2** hereto. Moreover, the initial SIS noted in Section 9.0 that the Cost Estimate presented was a “non-binding good faith cost planning grade estimate for the Company’s work associated with the interconnection of this Facility to the EPS...”. It further noted in Section 9.0 that the “planning grade estimate provided herein...is prepared using historical cost data from similar projects.”

17. TNEC does not dispute that a public hearing was held in PUC Docket No. 4956 on October 18, 2019 during which the Commission supported the proposed Conditional ISA. TNEC does not dispute the contents of the public hearing transcript, provided as Exhibit C to the Petition.

18. TNEC does not dispute that Exeter and TNEC signed the Conditional ISA on November 25, 2019. TNEC disputes that the Conditional ISA “identified all of the System Modifications that would be required for the interconnection, and their project costs” because analysis of such costs, including required transmission analysis, was not complete at the time of execution and, by definition, the Conditional ISA was not a final ISA.

19. TNEC does not dispute that the Conditional ISA referenced capital, removal and O&M costs of TNEC identified at the time of execution of the Conditional ISA.

20. TNEC does not dispute that “O&M” is defined in the Interconnection Tariff as “the Company’s operations and maintenance carrying charges on the incremental costs associated with serving the Interconnecting Customer.” TNEC disputes that such definition is intended in any way to address operations and maintenance costs assessed by NEP or any other Affected System operator. Stated further, under the Conditional ISA, Exeter agreed that “[t]he Interconnecting Customer shall be responsible for the actual Affected System operator costs, **including operation and maintenance costs**, and any additional Company costs necessitated as a result of the Affected System operator requirements, **none of which shall be subject to any cost caps or limitations**. Conditional ISA, Section 5.1 (emphasis added).

21. TNEC does not dispute that as a result of the Western RI Area ASO study, ISO-NE determined that the Project will not have a significant adverse impact on the transmission system, as stated in Exhibit D of the Petition. However, the Project was reviewed by ISO-NE inclusive of the transmission level System Modifications identified in paragraph 16, above.

22. TNEC does not dispute the contents of its Summary of Western RI Area ASO Study Results, provided as Exhibit E to the Petition. However, such conclusions were reached with the understanding that the Project would require construction of the transmission level System Modifications identified in paragraph 16, above.

23. TNEC does not dispute that it issued a final SIS for the Project on or around July 15, 2020. TNEC disputes Exeter’s characterization of the final SIS. Similar to the draft SIS, the final SIS clearly identified portions of required System Modifications as “Transmission Level” work.

National Grid System Modification	Conceptual Cost +/-25% Planning Grade Cost Estimate not including Tax Liability				Associated Tax Liability Applied to Capital	Total Customer Costs includes Tax Liability on Capital Portion
	Pre-Tax Total	Capital	O&M	Removal		
<b>NECO - Line Work, Customer Property</b>	<b>Pre-Tax Total</b>	<b>Capital</b>	<b>O&amp;M</b>	<b>Removal</b>	<b>11.08%</b>	<b>Total</b>
Equipment at Point of Common Coupling - See Note #1	\$ 124,873	\$ 124,873	\$ 0	\$ 0	\$ 13,836	\$ 138,709
<b>SUBTOTAL</b>	<b>\$ 124,873</b>	<b>\$ 124,873</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 13,836</b>	<b>\$ 138,709</b>
<b>NECO - Line Work, Mainline</b>	<b>Pre-Tax Total</b>	<b>Capital</b>	<b>O&amp;M</b>	<b>Removal</b>	<b>11.08%</b>	<b>Total</b>
New 34.5kV Circuit #2. UG From Lafayette - Customer POI. See Note #2	\$ 2,107,203	\$ 2,107,203	\$ 0	\$ 0	\$ 233,478	\$ 2,340,682
<b>SUBTOTAL</b>	<b>\$ 2,107,203</b>	<b>\$ 2,107,203</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 233,478</b>	<b>\$ 2,340,682</b>
<b>NECO -Line Work - Transmission Level</b>	<b>Pre-Tax Total</b>	<b>Capital</b>	<b>O&amp;M</b>	<b>Removal</b>	<b>9.90%</b>	<b>Total</b>
New 15 kV Transmission Line Tap, See Note #3	\$ 1,819,463	\$ 1,777,063	\$ 8,623	\$ 33,777	\$ 172,197	\$ 1,991,661
<b>SUBTOTAL</b>	<b>\$ 1,819,463</b>	<b>\$ 1,777,063</b>	<b>\$ 8,623</b>	<b>\$ 33,777</b>	<b>\$ 172,197</b>	<b>\$ 1,991,661</b>
<b>NECO - Substation Work (Distribution Level)</b>	<b>Pre-Tax Total</b>	<b>Capital</b>	<b>O&amp;M</b>	<b>Removal</b>	<b>11.08%</b>	<b>Total</b>
New 15 kV/34.5 kV Distribution Substation, See Note #4	\$ 3,611,479	\$ 3,611,479	\$ 0	\$ 0	\$ 400,152	\$ 4,011,631
<b>SUBTOTAL</b>	<b>\$ 3,611,479</b>	<b>\$ 3,611,479</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 400,152</b>	<b>\$ 4,011,631</b>
<b>NECO - Substation Work Non - PTF (Transmission Level)</b>	<b>Pre-Tax Total</b>	<b>Capital</b>	<b>O&amp;M</b>	<b>Removal</b>	<b>9.69%</b>	<b>Total</b>
New 15 kV/34.5 kV Transmission Substation, See Note #5	\$ 10,523,563	\$ 10,523,563	\$ 0	\$ 0	\$ 1,019,733	\$ 11,543,297
<b>SUBTOTAL</b>	<b>\$ 10,523,563</b>	<b>\$ 10,523,563</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 1,019,733</b>	<b>\$ 11,543,297</b>

NECO - Substation Work PTF (Transmission Level)	Pre-Tax Total	Capital	O&M	Removal	9.90%	Total
New 15 kV/34.5 kV Transmission Substation, See Note #8	\$3,697,468	\$3,697,468	\$0	\$0	\$366,049	\$4,063,518
<b>SUBTOTAL</b>	<b>\$3,697,468</b>	<b>\$3,697,468</b>	<b>\$0</b>	<b>\$0</b>	<b>\$366,049</b>	<b>\$4,063,518</b>
Donated Property Tax	Pre-Tax Total	Capital	O&M	Removal	Tax	Total
Donated Property Tax	\$0	\$0	\$0	\$0	\$293,177	\$293,177
<b>SUBTOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$293,177</b>	<b>\$293,177</b>
Interconnecting Customer Interconnection Facilities ("ICIF")	Pre-Tax Total	Capital	O&M	Removal	11.08%	Total
Witness Testing	\$7,500	\$0	\$7,500	\$0	\$0	\$7,500
<b>SUBTOTAL</b>	<b>\$7,500</b>	<b>\$0</b>	<b>\$7,500</b>	<b>\$0</b>	<b>\$0</b>	<b>\$7,500</b>
	Pre-Tax Total	Capital	O&M	Removal	Tax	Total
<b>Totals</b>	<b>\$21,884,049</b>	<b>\$21,841,649</b>	<b>\$8,623</b>	<b>\$33,777</b>	<b>\$2,209,178</b>	<b>\$24,393,907</b>

**Notes**

1. Installation of pole mounted equipment including (1) primary meter, (1) Loadbreak, (1) recloser, and (1) disconnect.
2. Install ~8,000 circuit feet of two (2) sets of 3-1/2" 1000 SCU cable, from Lafayette Substation to man hole located at intersection of Ten Rod Road and South County Trail. Install ~2500 circuit feet of one (1) set of 3-1/2" 1000 SCU cable from man hole located at the intersection of Ten Rod Road and South County Trail to the customer's POI
3. Installation of 15kV loop tap off the L 100 to new Wickford Substation, consisting of breaking the L 100 line at structure # 143 and installing two new spans of wire between the existing transmission line and the substation busses. New steel three pole structures on concrete caisson foundation will be required. Structure # 123 on the adjacent 34.5kV, 3311 line will need to be replaced to support the L 100 construction.
4. Install two (2) 34.5kV feeder positions with protection and control, including but not limited to site work, grounding, conduits, fencing and driveway from the street.
5. Install 15kV ring bus including breaker, disconnect switches, bus, bus insulators and wave trap; and associated site-work, grounding, foundations, structures, and associated protection and control.
6. Install 15kV 4-Breaker Ring Bus with protection and control, including but not limited to site work, grounding and conduits.
7. Costs do not include distribution line modifications on South County Trail and at the PCC of the Dry Bridge projects (24926794, 24926796, 24926798, 24926805).

A copy of the final SIS is included as **Exhibit 3** hereto.

24. TNEC does not dispute that it issued a "Final" ISA on or around August 12, 2020. The Final ISA was issued based on the understanding of the parties that the Conditional ISA was an interim document provided at Exeter's request that would become final once Attachment 3 is amended to include additional terms and conditions associated with TNEC, and if applicable,

Affected System operator costs and payment terms. See Petition, Exhibit B at 2. The System Modifications in Attachment 2 and Attachment 3 were listed separately based on the classification of distribution level and transmission level work, in the same manner as identified in the initial SIS and final SIS. Identifying the transmission level upgrades as “Affected System Operator Upgrades” is consistent with the Interconnection Tariff definition of “Affected System” as “[a]ny neighboring transmission or distribution EPS not under the control of the Company (e.g., a municipal utility, or other regulated distribution or transmission utility, which may include Affiliates, or ISO-NE, as defined herein).” Interconnection Tariff, Section 1.2. Regardless of ownership, all transmission assets will be controlled and operated by NEP, as TNEC’s transmission provider.

25. TNEC does not dispute the contents of its 2019 FERC Form 1. NEP is TNEC’s transmission provider and operates all transmission assets owned by TNEC.

26. TNEC disputes that the DAF charge is due to “Narragansett’s unilateral paper transfer of the Narragansett-owned System Modifications NEP.” No such “paper transfer” has occurred. NEP, as TNEC’s transmission provider, will operate all of the transmission-level System Modifications identified in the SIS and ISA. The DAF charge is billed by NEP to TNEC in accordance with Schedule 21-NEP, Attachment DAF to the ISO-NE Open Access Transmission Tariff. Such charges are assessed by NEP in connection with its role as TNEC’s transmission provider, in accordance with its FERC-approved tariffs.

27. TNEC disputes that it intentionally deleted Section 5(b) of the Conditional ISA in an attempt to materially alter the meaning of Section 5 of the agreement. Reference to Affected System operator study costs were removed solely because the Western RI Area ASO Study costs were already paid, and the study completed.



28. TNEC does not dispute that the NEP DAF charges were not previously identified. As noted in paragraph 26, above, TNEC disputes that such charges are related to the ownership of transmission facilities necessary to interconnect Exeter's project. Previous cost estimates in the draft and final SIS and the Conditional ISA were based on historical cost information. TNEC has not historically encountered generation projects of this scale, requiring construction of a new substation and associated transmission line facilities, with substantial equipment to be operated by NEP over the life of the assets. Therefore, DAF charges were not reflected in the historical cost information and had not been clearly identified by NEP at the time of the Conditional ISA.

29. TNEC does not dispute that Exeter challenged the assessment of the DAF charges on or around September 2, 2020. TNEC disputes the allegation that the charges contained in the final ISA are "unlawful." TNEC further disputes Exeter's allegation that TNEC "has refused to provide the requested back up information." TNEC is in the process of providing certain procurement information to Exeter and is willing to discuss providing further information under appropriate conditions to protect confidential bidder information.

30. TNEC does not dispute that it issued Invoice Number 500094459 on October 8, 2020.

31. TNEC disputes that it "previously agreed to provide the EPC Bid Package and final EPC contract" and that it "refused to provide Exeter with the final EPC contract awarded to the vendor." TNEC agreed to provide Exeter with information regarding the Request for Proposals (RFP) in connection with the solicitation for qualified contractors to construct the System Modifications and is in the process of delivering those materials to Exeter.

32. TNEC does not dispute the contents of the email notice sent to certain customers, including Exeter, on October 22, 2020 and provided as Exhibit I to the Petition.

33. TNEC does not dispute that Exeter made payment for Invoice Number 500094459 on October 30, 2020.

### **III. RESPONSE TO DISPUTED ISSUES**

#### **A. DAF Charges Are Assessed By NEP Pursuant To FERC-Approved Tariffs And Should Be Passed On To Exeter As The Entity Causing Such Costs.**

Exeter's Petition mischaracterizes the transmission facilities required to reliably interconnect its project. TNEC is not attempting to transfer any transmission assets associated with the Exeter Project to its transmission affiliate, NEP. Rather, TNEC has appropriately identified portions of the new substation and related equipment needed to interconnect the Project as transmission assets.<sup>2</sup> Once constructed, those transmission assets will be operated by NEP, in accordance with its role as TNEC's transmission provider. Exeter's focus on ownership of the assets is a red herring - the costs charged by NEP to TNEC associated with the transmission facilities required for the Exeter Project are properly assessed by NEP under its FERC-approved tariff. Moreover, TNEC's allocation of those costs as Affected System Operator costs to Exeter are appropriate under the Interconnection Tariff and consistent with PUC precedent regarding cost causation and allocation (see Order #23811 in Docket No. 4981, Petition of the Episcopal Diocese of Rhode Island; "Order 23811").

NEP operates transmission facilities that it owns directly, as well as certain transmission facilities owned by its distribution affiliates in New England, including TNEC. TNEC is a wholesale transmission customer of NEP and FERC-approved Schedule 21-NEP to the ISO-NE OATT provides the mechanisms by which NEP allocates and recovers from its transmission

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<sup>2</sup> For new substations containing assets operating below 69kV and at or above 69kV, as is the case here, equipment rated at 69kV or higher is generally booked as a transmission asset, while equipment below 69kV is booked as a distribution asset. TNEC identified the System Modifications required for the Exeter Project consistent with this approach, identifying System Modifications at the 115kV level as transmission assets.

customers certain costs associated with its provision of transmission service, including costs associated with new transmission facilities constructed for specific transmission customers, and on-going charges associated with the operation and maintenance of those assets.<sup>3</sup>

Under Parts II and III of the Federal Power Act (FPA), the rates and services for electric transmission in interstate commerce and electric wholesale power sales in interstate commerce are the exclusive jurisdiction of the FERC. New York v. FERC, 535 U.S. 1, 122 S.Ct. 1012, (2002). Pursuant to the filed rate doctrine, rates filed with or fixed by FERC must be given binding effect by state utility commissions determining intrastate rates. Entergy Louisiana, Inc. v. Louisiana Public Service Commission et al., 539 U.S. 39, 47 123 S.Ct. 2050, 2056 (2003); Nantahala Power & Light Co. v. Thornburg, 476 U.S. 953, 962, 106 S.Ct. 2349 (1986). “When the filed rate doctrine applies to state regulators, it does so as a matter of federal pre-emption through the Supremacy Clause.” Entergy Louisiana, 539 U.S., at 47.

Applying the filed rate doctrine, the Supreme Court has held that state regulators are barred from setting rates that would have the effect of trapping costs by categorically excluding costs under a FERC tariff from recovery through retail rates. Entergy Louisiana, 539 U.S., at 39; Nantahala, 476 U.S., at 968, 970. “Such a ‘trapping’ of costs is prohibited.” Nantahala, 476 U.S., at 970.

In its April 14, 2020 written decision in Order 23811, the PUC agreed that “[t]he PUC is prohibited from reviewing the propriety of FERC-approved rates” and that “[i]t must allow Narragansett full recovery of costs properly assessed by New England Power or ISO-NE to Narragansett under FERC-approved tariffs.” Order 23811 at 6-7. However, it is within the PUC’s

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<sup>3</sup> See Schedule 21-NEP, Attachment DAF, available at [https://www.iso-ne.com/static-assets/documents/regulatory/tariff/sect\\_2/sch21/sch\\_21\\_nep.pdf](https://www.iso-ne.com/static-assets/documents/regulatory/tariff/sect_2/sch21/sch_21_nep.pdf).

jurisdiction to determine how costs incurred under FERC-approved transmission tariffs should be recovered in retail rates. Id. at 7.

The PUC indicated that transmission charges for transmission facilities that serve all retail customers are collected through a base transmission charge and a transmission service cost adjustment provision based on cost allocation principles. Order 23811 at 8. Where transmission charges are necessary to serve a distributed generation customer's interconnection request, the Interconnection Tariff provides that "[t]he Interconnecting Customer will be directly responsible to the potentially Affected System operators for all costs of any additional studies required to evaluate the impact of the interconnection on the potentially Affected Systems" and that "Interconnecting Customers shall be directly responsible to any Affected System operator for the costs of any system modifications necessary to the Affected Systems." Order 23811 at 11. Moreover, the PUC found that "New England Power Company has always been an Affected System under each version of the Distributed Generation Standards for Interconnection tariffs." Order 23811 at 13-14. Therefore, the PUC found that "recovering the costs caused by a distributed generation interconnecting customer is consistent with well-established principles of cost causation." Id. at 14.

The PUC's decision in Order 23811 controls here as well. Construction of the new Wickford Substation is required only to serve the proposed aggregate 50MW of new distributed generation projects proposed by Exeter and EDP, and the 58MW of new distributed generation proposed by Green Development at this time. The new Wickford Substation would not be built absent these projects, as it is not currently needed to serve other retail customers. The new Wickford Substation will include equipment greater than 69kV, which will be classified as transmission assets. Those transmission assets will be managed by NEP within its role as the

FERC-jurisdictional provider of transmission services to TNEC. As a result, NEP will assess TNEC a DAF charge for the transmission assets in accordance with Schedule 21-NEP, Attachment DAF. This FERC-approved charge must be considered just and reasonable by the PUC, and the PUC must allow TNEC full recovery of those costs. Because these costs are being incurred solely because of the proposed Exeter and Dry Bridge Solar I-IV projects, those interconnecting customers should pay for the costs consistent with the PUC's longstanding cost-causation principles and its Order 23811. In the event the Wickford Substation is later used to serve another distributed generation project or the Company determines that some portion of the capacity of the new substation will be used by other Company non-DG customers, TNEC will reevaluate whether the Annual Facilities Charge should be shared by any additional distributed generation facilities or amongst all customers of TNEC that benefit from the construction and operation of the substation.

**B. The Assessment Of DAF Charges Is Consistent With The Conditional ISA.**

Exeter argues that the Conditional ISA cannot be revised to include the DAF charges because the DAF charges are related to System Modifications identified in the final SIS and not resulting from additional Affected System operator studies. Exeter claims that any cost increases are therefore subject to the ten percent cost cap in the Interconnection Tariff. Petition at 13-14. Exeter's position is inconsistent with the plain language of the Conditional ISA, as well as provisions of the Interconnection Tariff and the PUC's Order 23811.

Under the Conditional ISA, the parties agreed to the following cost adjustment procedures in Section 5.1:

5.1 Cost or Fee Adjustment Procedures. The Company will, in writing, advise the Interconnecting Customer in advance of any expected cost increase for work to be performed up to a total amount of increase of 10% only. Any such changes to the Company's costs for the work shall be subject to the Interconnecting Customer's

consent. The Interconnecting Customer shall, within thirty (30) days of the Company's notice of increase, authorize such increase and make payment in the amount up to the 10% increase cap, or the Company will suspend the work and the corresponding agreement will terminate. The foregoing cost adjustment procedures shall only apply to the Company System Modification costs in Section 5(a) above, as detailed in the Impact Study, Detailed Study as necessary and/or ISRDG completed as of the date this Agreement is issued in executable form. **The Interconnecting Customer shall be responsible for the actual Affected System operator costs, including operation and maintenance costs, and any additional Company costs necessitated as a result of the Affected System operator requirements, none of which shall be subject to any cost caps or limitations.** (emphasis added).

Exeter expressly agreed to pay for actual Affected System operator costs, including operation and maintenance costs, without limitation. This clause was specifically added to the Conditional ISA and was important to include because the final details and final cost estimates for any additional required system modifications to Affected Systems or the distribution system were not known at the time of executing the Conditional ISA. See Petition, Exhibit B at 2. The Conditional ISA was always intended to be an interim document produced to aid Exeter in obtaining financing while additional studies and cost estimates were prepared. The Conditional ISA was intended to be replaced with a final ISA after all such costs were identified.

Importantly, the PUC approved the revised terms of the Conditional ISA (including Section 5.1 revisions) upon staff's recommendation that it "does not appear they shift the risk from the customer to ratepayers as compared to the form ISA contained in the Tariff as Attachment H. In fact, it appears the developer (interconnecting customer) has taken on additional risk in the form of unknown costs." Petition, Exhibit B at 3.

The PUC also found that the cost responsibility in the Conditional ISA is consistent with the Interconnection Tariff. Section 5.4 of the Interconnection Tariff provides that "Interconnecting Customers shall be directly responsible to any Affected System operator for the costs of any system modifications necessary to the Affected Systems." Petition, Exhibit B at 4-5. More specifically,

the PUC found that preserving the ten percent cap on currently known costs but lifting the cap on unknown System Modification costs that arise from the results of Affected System Operator studies “appropriately balances the interest of the Interconnecting Customer in cost controls over currently known System Modifications while protecting National Grid and its ratepayers from increased costs that arise in the future due to other entities’ studies.” Petition, Exhibit B at 6.

Under the Conditional ISA, Exeter assumed the risk that additional costs related to Affected System operators could be identified after the Conditional ISA was executed and agreed that the ISA would be amended to reflect such costs. Moreover, Exeter expressly agreed to new language in the Conditional ISA providing that Exeter “shall be responsible for the actual Affected System operator costs, including operation and maintenance costs, and any additional Company costs necessitated as a result of the Affected System operator requirements, none of which shall be subject to any cost caps or limitations.” Conditional ISA, Section 5.1.

DAF charges were not identified in the SIS or Conditional ISA because those charges were not known to TNEC at the time. The cost estimate in the SIS is a “planning grade estimate” that is “prepared using historical cost data from similar projects.” SIS at 31. However, TNEC has not historically encountered generation projects of this scale (i.e., an aggregate of 50 MW proposed by Exeter and EDP). Nor has TNEC had prior instances in which interconnection of such generation requires construction of a new substation and associated transmission line facilities, with substation equipment to be operated by NEP over the life of the assets. The cost estimates contained in the SIS were carried over into the Conditional ISA with the understanding that the Conditional ISA was not a reflection of final costs, and that Exeter unequivocally agreed to “be responsible for the actual Affected System operator costs, **including operation and maintenance costs**, and any additional Company costs necessitated as a result of the Affected System operator

requirements, **none of which shall be subject to any cost caps or limitations.** Conditional ISA, Section 5.1 (emphasis added).

The DAF charges are not TNEC System Modification costs – they are charges assessed by NEP, an Affected System operator, to cover the annual costs of operating transmission assets.<sup>4</sup> The DAF charges are assessed pursuant to Schedule 21-NEP of the OATT, which has been approved by FERC and cannot be challenged before the PUC. If the PUC were to accept Exeter’s argument and subject the DAF charges to the ten percent cost cap, the PUC would be required to allow recovery of the DAF charges from all retail customers through the transmission service cost adjustment provision. This is exactly the type of cost shifting the PUC sought to avoid when it approved the Conditional ISA. Therefore, the PUC should reject Exeter’s argument and find that Exeter must pay the DAF charges consistent with the plain language of Section 5.1 of the Conditional ISA, Section 5.4 of the Interconnection Tariff, the Staff Report and Recommendation in Docket No. 4956, and Order 23811.

**C. TNEC Is Open to Providing Relevant Information Relating to Project Interconnection Costs Subject to Appropriate Protection of Confidential Bidder Information.**

Exeter argues that it has “requested a detailed breakdown of the final contracted costs associated with each ‘ASO Upgrade’ and ‘System Modification’ under the ‘Final’ ISA” but that TNEC has refused to provide responsive information. Petition at 16. Exeter has further requested “information about its procurement of the transformers and other equipment needed for Exeter’s interconnecting, including the names of the suppliers, actual costs, and other purchase terms.” Petition at 17. Exeter argues that such information is necessary to determine whether the System Modification costs and DAF charges are reasonable. Id.

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<sup>4</sup> See Schedule 21-NEP, Sec. 24.6.



At the outset, TNEC notes that the detailed cost information contained in the ISA is based on estimates; a detailed breakdown of which is already provided in the SIS. The Final ISA states that the DAF charge “will be recalculated based on the actual reconciled costs.” Accordingly, the DAF charge will not be determined with certainty until construction is complete and all costs have been reconciled.

TNEC acknowledges that as of this date, it has not produced copies of the selected EPC proposal or resulting contracts. TNEC has withheld such information to comply with bidder confidentiality provisions of the RFP. TNEC is open to providing relevant information about the actual costs of equipment based on the results of the procurement, provided that such information is produced with appropriate redactions or in an anonymized format to protect confidential bidder information in compliance with the RFP terms. TNEC proposes to discuss this issue further during the scheduled conference between the parties on December 10, 2020.

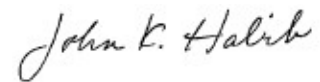
#### **IV. CONCLUSION**

As detailed above, NEP, an Affected System operator, will charge TNEC DAF charges to cover the annual costs of operating the transmission assets that are required to be constructed to interconnect Exeter’s Project. The DAF charges are assessed pursuant to Schedule 21-NEP of the OATT, which has been approved by FERC and cannot be challenged before the PUC. Consistent with the PUC’s long-standing cost causation principles, as recently affirmed in Order 23811, Exeter should be responsible for those costs as they would not be incurred but for its proposed projects. Moreover, the addition of DAF charges in the Final ISA is consistent with the terms of the Conditional ISA, in which Exeter agreed to be responsible for all Affected System operator costs, including operation and maintenance costs, without any cost caps or limitations. For those reasons, Exeter should be responsible for the DAF charges as presented in the Final ISA.

**Respectfully submitted,**

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

By its attorney,



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Dated: December 3, 2020