

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
ENERGY FACILITY SITING BOARD**

In re The Narragansett Electric Company :
d/b/a National Grid : Docket No. SB-2008-02
(Rhode Island Reliability Project) :

Supplemental Pre-Filed Testimony of

David J. Beron, P.E., P.M.P.

September 28, 2009

TESTIMONY OF DAVID J. BERON, P.E., P.M.P.

1 Introduction

2 Q. Please state your full name and business address.

3 A. My name is David J. Beron. My address is 40 Sylvan Road, Waltham, MA.

4 Q. By whom are you employed and in what position?

5 A. I am employed by National Grid as a Project Manager and serve as such for the Rhode
6 Island Reliability Project.

7 Q. Have you previously testified in this proceeding?

8 A. Yes. I testified at the preliminary hearing in November, 2008, filed prefiled testimony,
9 and testified at the final hearing in July.

10 Q. What is the purpose of this testimony?

11 A. In this testimony I will address several issues related to the Advisory Opinion of the
12 Johnston Zoning & Planning Boards. I will also review alternatives and mitigation to
13 address issues raised in West Warwick.

14 Johnston Advisory Opinion

15 Q. Are you familiar with the Town of Johnston's Advisory Opinion?

16 A. Yes, I am.

17 Q. In the Advisory Opinion, Johnston concludes (p. 6) that it is not safe for abutters to build
18 structures to the edge of the ROW. Do you believe it is safe to build to the edge of the
19 right-of-way?

20 A. Yes. POWER Engineers, Inc., which is the owner's engineer for the Project, prepared a
21 preliminary engineering analysis report to determine clearances of the T-172 and double

1 circuited distribution line(s) to the edge of the right-of-way. The report, which contained
2 several hundred pages of computer output, was provided to the Town of Johnston on July
3 2, 2009 in response to its Data Request 2-1. In the conclusion, POWER states “the
4 conduct or movement envelopes for all energized cables of the rebuilt Line T172 (N/S)
5 and associated double circuited distribution line(s) fall within the requirements of the
6 NESC 2007 design code and NG’s standard design procedures.” This report is attached
7 to and addressed in more detail in the prefiled testimony of Joseph M. Drouin, P.E.,
8 which is filed herewith.

9 Q. In support of its conclusion that it is not safe for abutters to build structures to the edge of
10 the right-of-way, the Town cites Dr. Bailey’s statement that “it would be prudent to check
11 with National Grid and see if they had any specific recommendations based upon their
12 experience and practices.” Advisory Opinion, p. 3, ¶4. Do you believe this supports the
13 Town’s conclusion?

14 A. No, I do not. Dr. Bailey is a scientist with extensive background and experience in the
15 assessment of environmental and occupational exposures and their relationship to health.
16 As the Board knows, we rely on Dr. Bailey for advice and guidance on EMF issues. The
17 question asked of Dr. Bailey related to electrical shock and grounding, not to EMF. Dr.
18 Bailey is not an electrical engineer and properly deferred the question to National Grid.

19 Q. In paragraph 5 on page 3, the Advisory Opinion states that Town officials had been
20 seeking guidance from National Grid related to building within 20 feet of the edge of the
21 right-of-way “as far back as January of 2009.” Are you familiar with this?

22 A. Yes, I am. At the hearing on September 1, the Town counsel, Mr. Russo, introduced an
23 e-mail from Joseph Tumidajski, a National Grid engineer, to the Building Official’s

1 office. A copy of the e-mail is attached as Att. DJB-6. In the e-mail, Mr. Tumidajski
2 declined to give specific clearances but suggested that developers work with National
3 Grid if transmission lines are located in the vicinity of a proposed building. He attached
4 two documents to his e-mail: National Grid's engineering department guideline entitled
5 "Conditions for Proposed Activities within Transmission Rights-of-Way", GL.06.01.307,
6 and a brochure from the real estate group related to work by property owners on
7 transmission line rights-of-way. Copies of these documents are Atts. DJB-7 and DJB-8
8 hereto. Both of these documents deal with activities within transmission rights-of-way,
9 not with activities outside of rights-of-way.

10 Q. Is the claim in Paragraph 5 (p. 3) of the Advisory Opinion that "National Grid failed to
11 provide any response" correct?

12 A. No, it is not. At the September 1 hearing, Mr. Russo claimed that Mr. Nascenzi
13 (Johnston Building Official) sent a letter to Mr. Tumidajski and asked for a review of a
14 plan but that National Grid did not respond. A copy of Mr. Nascenzi's March 31, 2009
15 letter is attached as Att. DJB-9 and the response dated April 7, 2009 from Michael
16 DiNezza in the National Grid Real Estate Department is attached as Att. DJB-10. Mr.
17 DiNezza notes that the proposed dwelling is 20 feet from the edge of the right-of-way
18 and concludes that "it will have no impact on the rights of TNEC [The Narragansett
19 Electric Company.]" Thus, the claim by Mr. Russo at the hearing on September 1 and
20 the statement in Paragraph 5, page 3 of the Advisory Opinion that National Grid did not
21 respond, are both incorrect. As an aside, I note that the site which Mr. Nascenzi inquired

1 about is on Sprague Circle which is located in the far eastern part of Johnston on a right-
2 of-way that is unrelated to the Project before the Board.

3 Q. Are you familiar with the conditions proposed by the Town of Johnston?

4 A. Yes, I am.

5 Q. Has National Grid responded to them?

6 A. Yes. Att. DJB-11 is our response to the first 17 conditions which we presented at the
7 zoning and planning board hearing on September 1, 2009. Conditions 18 and 19 were
8 added just before the September 1 hearing and No. 20 was added after the hearing.

9 Q. Do you agree with the Town of Johnston's characterization in paragraph 14 of its
10 Advisory Opinion that National Grid has stipulated to certain conditions?

11 A. Generally we do although the Town of Johnston's characterization represents an
12 oversimplification of our position in several instances. As we explained in our response
13 (Att. DJB-11), we were not in full agreement with conditions #1, 5, 6, 7, 9 and 13. In
14 addition, we did not accept conditions #2, 10, 14, 15, 16 and 17 for the reasons stated in
15 Att. DJB-11.

16 Q. Are you familiar with the three conditions that were added?

17 A. Yes. Two deal with taxes and the final one relates to Building Inspector approvals of the
18 transmission structure foundations.

19 Q. Please address No. 18 and 19, which deal with taxes on the Project.

20 A. In July, the Town of Johnston issued a data request on this subject. National Grid's
21 response to the Town of Johnston's Data Request No. 3 is attached as Att. DJB-12.

22 However, imposing a tax rate and annual tax payment on National Grid is well beyond

1 the EFSB's request to the Johnston Planning and Zoning Boards. We find it illogical that
2 Johnston rejected our application for a special use permit in part because "National Grid
3 has not provided adequate assurances as to the additional property tax revenue that the
4 Project will generate for the Town." P. 6, ¶4. We believe that this is an issue for the
5 Johnston Tax Assessor and National Grid tax personnel to determine.

6 Q. Do you agree with Condition No. 20 dealing with the Building Official's inspection of
7 the transmission line structures?

8 A. No, I do not. Section 90.2(B)(5) of the National Electrical Code and Section 2701.2 of
9 the International Building Code (IBC) provide that electrical permits are not required for
10 facilities under the exclusive control of an electric utility which are located on easements,
11 rights-of-way or property owned by the utility. The IBC contains a general exemption
12 for installations related to the generation, transmission or distribution of electricity.
13 (Section 105.2.3.) I am attaching as DJB-13, a copy of the PUC's 1996 decision in
14 Docket 2397 determining that the Warren Substation was exempt from the requirement of
15 a municipal electrical inspection and permit. Finally, I note that in its Preliminary Order
16 (p. 15), the EFSB asked for advisory opinions from each of the building officials in the 6
17 cities and towns along the Project route as to whether the Project would meet the
18 requirements of local ordinances. None of the six building officials, including the
19 Johnston building official, have submitted advisory opinions suggesting that the
20 transmission structures are subject to municipal inspection.

21 Q. Do you have any additional comments on the Johnston Advisory Opinion?

22 A. I do not but Mr. Drouin addresses the McGavran report in his testimony.

1 West Warwick Issues

2 Q. Has National Grid considered any additional measures to address some of the public
3 comments at the Board's West Warwick hearing?

4 A. Yes. We have reviewed the Project and the alternatives discussed in the ER in response
5 to the comments at the Board's public hearing in West Warwick. We are convinced that
6 the Project, as proposed, appropriately balances impacts and the need for additional
7 transmission capacity. The need for and the appropriateness of the Project, as proposed,
8 was strongly confirmed by the Division's witness, Mr. Booth. One subject that received
9 substantial attention at the West Warwick hearing was EMF. The Advisory Opinion
10 which the Board has received from the Rhode Island Department of Health supports Dr.
11 Bailey's report and does not recommend establishing any maximum field levels at the
12 edge of rights-of-way given the absence of guidance from national or international
13 standard setting organizations. It does acknowledge that the edge of ROW levels will be
14 less than the standards established by Florida and New York and the EU/ICNIRP
15 guideline. However, we do recognize that the Project represents a change from existing
16 conditions for close abutters. As a result, I want to reiterate National Grid's willingness
17 to work with these direct abutters on reimbursement for plantings or other mitigation on
18 their properties to minimize the effects of the change. Additionally, we intend to install
19 gates and guard rails where possible at road crossings to reduce trespassing on the ROW
20 by ATVs and others.

21 Q. Are there other mitigation measures which you can offer to the abutters?

1 A. Yes. We are willing to engage a landscape architect to assist direct abutters in
2 developing landscape plans that will make most effective use of the mitigation funding
3 discussed above. We are also willing to work with our landscape architect and these
4 abutters to design plantings around the base of new transmission structures to provide
5 screening from the base of the structure.

6 Q. Does this conclude your testimony?

7 A. Yes.

Attachments

- DJB-6 Tumidajski e-mail to Johnston Building Official (1/14/09)
- DJB-7 “Conditions for Proposed Activities within Transmission Line Rights-of-Way”
(GL.06.01.307)
- DJB-8 National Grid Brochure: “Transmission Line Rights-of-Way – Information for Homeowners, Developers and Other Property Owners About Proposing Improvements or Other Work in Transmission Line Rights-of-Way”
- DJB-9 March 31, 2009 letter from Mr. Nascenzi to Joseph Tumidajski with site plan
- DJB-10 April 7, 2009 response from Michael DiNezza to Mr. Nascenzi
- DJB-11 National Grid’s Response to Johnston’s Proposed Limiting Conditions
(September 1, 2009)
- DJB-12 National Grid’s Response to Johnston’s Data Request No. 3 (July 23, 2009)
- DJB-13 In re The Narragansett Electric Company (Warren Substation), PUC Docket 2397,
Report and Order (Order #14942, March 26, 1996)

Sue Leonardi

From: "Tumidajski, Joseph" <JOSEPH.TUMIDAJSKI@us.ngrid.com>
To: <sleonardi@johnston-ri.us>
Cc: "Fresolone, Elizabeth A." <ELIZABETH.FRESOLONE@us.ngrid.com>; "Browne, Mark S." <MARK.BROWNE@us.ngrid.com>
Sent: Wednesday, January 14, 2009 9:25 AM
Attach: GL 06 01 307.pdf; Transmission%20Right-of-Way%20brochure.pdf
Subject: Transmission Line Clearance Information from National Grid

Ben,

Per our discussions, I have the following information for you. The following statement comes from our transmission group and should be helpful in creating a building ordinance.

"Clearances depend on many variables so the only way to give specific numbers would be to make them overly conservative. The best outcome would be for the town to require that the developer obtain approval from National Grid (through our Real Estate dept) in the event there are transmission lines in the vicinity of the proposed building. We would work directly with the developer. We do that often. Typical conditions that we require for work in the vicinity of transmission lines are in the attached file."

<<GL 06 01 307.pdf>>

In addition, I have attached a document from our Real Estate group regarding working with developers where overhead lines or right-of ways exist.

<<Transmission%20Right-of-Way%20brochure.pdf>>

If you need to contact someone from National Grid Real Estate, contact;

Elizabeth A. Fresolone
Lead Supervisor
Real Estate Energy Delivery Support
National Grid
280 Melrose Street
Providence, RI 02907
t:401.784.7556
f:315.460.8683

If you have any additional questions, please feel free to call me.

Joe Tumidajski
Principal Engineer
National Grid
Westboro, MA
Office: 508 389-2413
Cell: 401 575-6978

nationalgrid	ENGINEERING DOCUMENT Guideline: Transmission	Doc.# GL.06.01.307 Page 1 of 5
	Conditions for Proposed Activities within Transmission Line Rights-of-Way	Version 1.2 – 07/12/07

Conditions for Proposed Activities within Transmission Line Rights-of-Way

PRINTED COPIES ARE NOT DOCUMENT CONTROLLED. FOR THE LATEST AUTHORIZED VERSION PLEASE REFER TO THE ENGINEERING DEPARTMENT DOCUMENTS CABINET IN DOCUMENTUM		
File: GL.06.01.307 Conditions for Proposed Activities within Transmission Line Rights-of-Way	Originating department: Transmission Engineering Services	Sponsor: Mark S. Browne

nationalgrid	ENGINEERING DOCUMENT Guideline: Transmission	Doc.# GL.06.01.307 Page 2 of 5
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nationalgrid	ENGINEERING DOCUMENT Guideline: Transmission	Doc.# GL.06.01.307 Page 3 of 5
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1. Scope

This document presents minimum conditions for work within National Grid transmission line rights-of-way, whether owned in fee or by easement. Activities that are not fully in conformance with this document may sometimes be allowed provided they are specifically shown on plans or described in specifications or other documents that have been reviewed and approved by National Grid.

“Requestor” as used in this document refers to any person, organization, corporation or other entity requesting permission to conduct activities within a transmission line right-of-way or anyone acting on the Requestor’s behalf.

2. Compliance/Safety

A. All activities conducted by the Requestor shall comply with all applicable Federal, state, and local laws, statutes, rules, regulations, and codes. In particular, the requirements of the following statutes, regulations, and safety codes and guidelines must be met:

- *National Electrical Safety Code*
- In Massachusetts, 220 CMR 125.00, “Installation and Maintenance of Electric Transmission Lines,”
- In New York, Part 57 of the New York State Industrial Codes Rules (also known as the “High-Voltage Proximity Act”)
(http://www.labor.state.ny.us/business_ny/employer_responsibilities/safety/s57.htm)
- OSHA regulations governing working clearances from energized lines. OSHA Standard 29 CFR 1926.550 Subpart N is specific to cranes, derricks, hoists, elevators, and conveyors. However, all vehicles, equipment, and loads shall maintain the minimum clearances from energized wires that are specified in this Standard unless a more restrictive standard applies.

B. The Requestor shall not place or store any items within the right-of-way, including construction materials or debris, excavated soil, trailers, or storage containers.

C. The Requestor shall not unload or load vehicles or equipment within the right-of-way.

D. The Requestor shall adequately ground vehicles, equipment, fences and gates, at all times and in accordance with applicable Federal, state, and local laws, statutes, rules, regulations, and design codes, including, but not limited to, those listed in paragraph A above and IEEE Standard 80.

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3. Protection of Transmission Line Facilities

The Requestor shall, at all times, protect transmission line facilities from damage. In addition to compliance with safety codes as described in paragraph 1 above, protection of transmission facilities shall, as a minimum, include the following:

- A. The Requestor shall operate equipment and vehicles at least 50 feet horizontally away from any transmission line pole, tower, guy wire, or guy anchor.
- B. When making a rough cut during excavation, the Requestor shall disturb no earth within an area bounded by a line drawn 25 feet plus 2.5 times the depth of the cut from the nearest transmission line pole, tower leg, guy wire, or guy anchor, but not less than 50 feet. Upon completion of the rough cut, the slopes of the bank shall be graded on a slope no steeper than one vertical to five horizontal and stabilized with vegetation or rip-rap. The top of the slope shall be at least 50 feet from the nearest pole, tower leg, guy wire, or guy anchor.
- C. The Requestor shall not store or use explosives within the right-of-way.
- D. The Requestor shall locate all ground wires buried in areas to be excavated and shall protect them against damage. If a buried ground wire is broken, the Requestor shall prevent anyone from touching it and shall notify National Grid.

4. Access to Right-of-way`

- A. The Requestor shall not at any time block or impede access to or along the right-of-way.
- B. The Requestor shall not damage roads or trails used to gain access to or along the right-of-way.

5. Preservation of Rights and Future Use

- A. National Grid retains all rights granted in the original right-of-way deed. Specifically, National Grid reserves the right to place future structures or relocate existing structures anywhere within the right-of-way, and they reserve the right to control any vegetation within the right-of-way.
- B. The Requestor shall place no above or below ground structures within the right-of-way, including streetlights, signs, sheds, fences, septic systems, and swimming pools.
- C. Improvements shall not continuously occupy more than 100 feet along any line drawn longitudinally along the right-of-way.
- D. Improvements shall not occupy expected future locations of transmission structures. This includes the bisector of angles in the right-of-way and generally includes areas adjacent to existing structures.

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nationalgrid	ENGINEERING DOCUMENT Guideline: Transmission	Doc.# GL.06.01.307 Page 5 of 5
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6. Protection of Interests

- A. National Grid shall not be held liable for any damage to the Requestor’s activities within the right-of-way when such damage is the result of construction, maintenance, or operation or other use of existing or future transmission line facilities.
- B. The Requestor shall pay all costs associated with modifications or repairs made necessary to National Grid’s facilities as a result of activities by the Requestor, including the cost of repairs or modifications to buried ground wires. Repairs and/or modifications shall be performed by National Grid. The Requestor shall notify National Grid’s Manager of Transmission Engineering Services when a buried wire is damaged.
- C. The Requestor shall notify National Grid in writing at least 24 hours before the start of the work. In New York the notification shall also be made in accordance with the requirements of the High Voltage Proximity Act (Section 57.7).
- D. Electrostatic currents may occur in proximity to electric transmission lines under certain circumstances. Although people may experience annoying shocks due to these currents when touching conductive objects, National Grid is not able to eliminate the currents. The steady-state current due to these electrostatic effects is within the limits established by the *National Electrical Safety Code*.



National Grid

25 Research Drive
Westborough, MA 01582



Transmission Line Rights-of-Way

Information for Homeowners, Developers and Other Property Owners About Proposing Improvements or Other Work in Transmission Line Rights-of-way



National Grid

National Grid operates a network of approximately 9,000 miles of high voltage electric transmission lines. These transmission lines, and the rights-of-way on which they are located, are a critical part of the electric grid in New England and New York.

The activities and improvements that are permitted within the rights-of-way are significantly limited in order to protect the public and to avoid inadvertent damage to the transmission system.

WRITTEN PERMISSION REQUIRED

In order to install, maintain, and operate electric transmission lines safely and reliably, improvements and activities within rights-of-way are restricted. Typically, the actual right-of-way extends a considerable distance beyond the visible transmission improvements.

National Grid has a formal process for reviewing proposed improvements and/or activities within the rights-of-way. An application must be submitted to the company.

If the company agrees to allow specific improvements or activities within a right-of-way, a written agreement detailing the work to be done must be executed by the company and the property owner. The written agreement explains the specific improvements and/or activities that are allowed. The agreement prevents misunderstandings and also enables the property owner to demonstrate that s/he has permission for his/her improvements. This proof is typically needed when applying for home financing or to show future buyers.



WHAT'S ALLOWED?

A number of factors are considered when evaluating whether improvements or activities are permissible, including:

- ◆ **Safety** - federal and state administrative law controls how far people and equipment must remain away from transmission wires. Improvements and activities must meet all safety code requirements and not create a hazard to National Grid workers or the public in order to be considered.
- ◆ **Transmission Structures** - the improvements or activities cannot create a risk of damage to the transmission structures or wires. For example, they cannot destabilize the soil surrounding the structures or be located too close to the structures, including guy wires. The improvements or activities also cannot preclude the future construction or reconstruction of transmission lines within the right-of-way.
- ◆ **Access** - access to and along the right-of-way must be maintained for emergency maintenance of the transmission lines and for future construction or reconstruction of transmission lines.

Limited improvements and activities that do not interfere with the safe operation, maintenance and future use of the right-of-way may be permissible.

Unfortunately, many improvements and activities are not permissible. For example, structures such as houses, garages, sheds, swimming pools, and septic systems are not allowed. Roads and driveways that run parallel to and within the right-of-way and piling soil, wood chips, snow or other materials within the right-of-way also are not permitted.

HOW TO SUBMIT AN APPLICATION FOR YOUR PROPOSED PROJECT

An application is required of anyone requesting permission to grade, change or conduct activities within the right-of-way. All applications undergo comprehensive evaluation by National Grid. Only the property owner may submit an application.

All applications must be submitted to National Grid in writing. It is likely that most property owners submitting an application will require the services of an engineer or architect to prepare the application. A review fee is collected by National Grid.

THE APPLICATION MUST INCLUDE:

- ◆ **A cover letter including the following:**
 - Name of person proposing activities within the right-of-way
 - Location (town/city and state) of the proposed activity
 - A list and description of the proposed improvements and/or activities within the right-of-way
- ◆ **Plans showing the work to be performed must be drawn to scale and include the following:**
 - North arrow
 - Edges of the right-of-way and relevant property lines
 - Location of adjacent transmission line structures including structure numbers
 - Other important physical or geographic features in the immediate vicinity of the proposal such as public roads, bodies of water, rivers, and streams
 - Proposed improvements and/or activities
- ◆ **Send two copies of the application materials to:**

Property Assets and Real Estate
National Grid
25 Research Drive
Westborough, MA 01582

TO CONTACT US

If you have additional questions please call us at 508.389.9119

We hope that these guidelines are helpful and we appreciate your cooperation. Together, we can help ensure that electricity is delivered along National Grid's transmission lines in a safe and reliable manner.

Bernard J. Nascenzi, C.B.O.



Building Official
Town Hall
100 Irons Avenue
Johnston, Rhode Island 02919
Phone: (401) 231-4163 Fax: (401) 231-4181

March 31, 2009

National Grid
Attn: Joseph Tumidajski
Principle Engineer
25 Research Drive
Westborough, MA 01582

RE: Plat 7 Lot 144

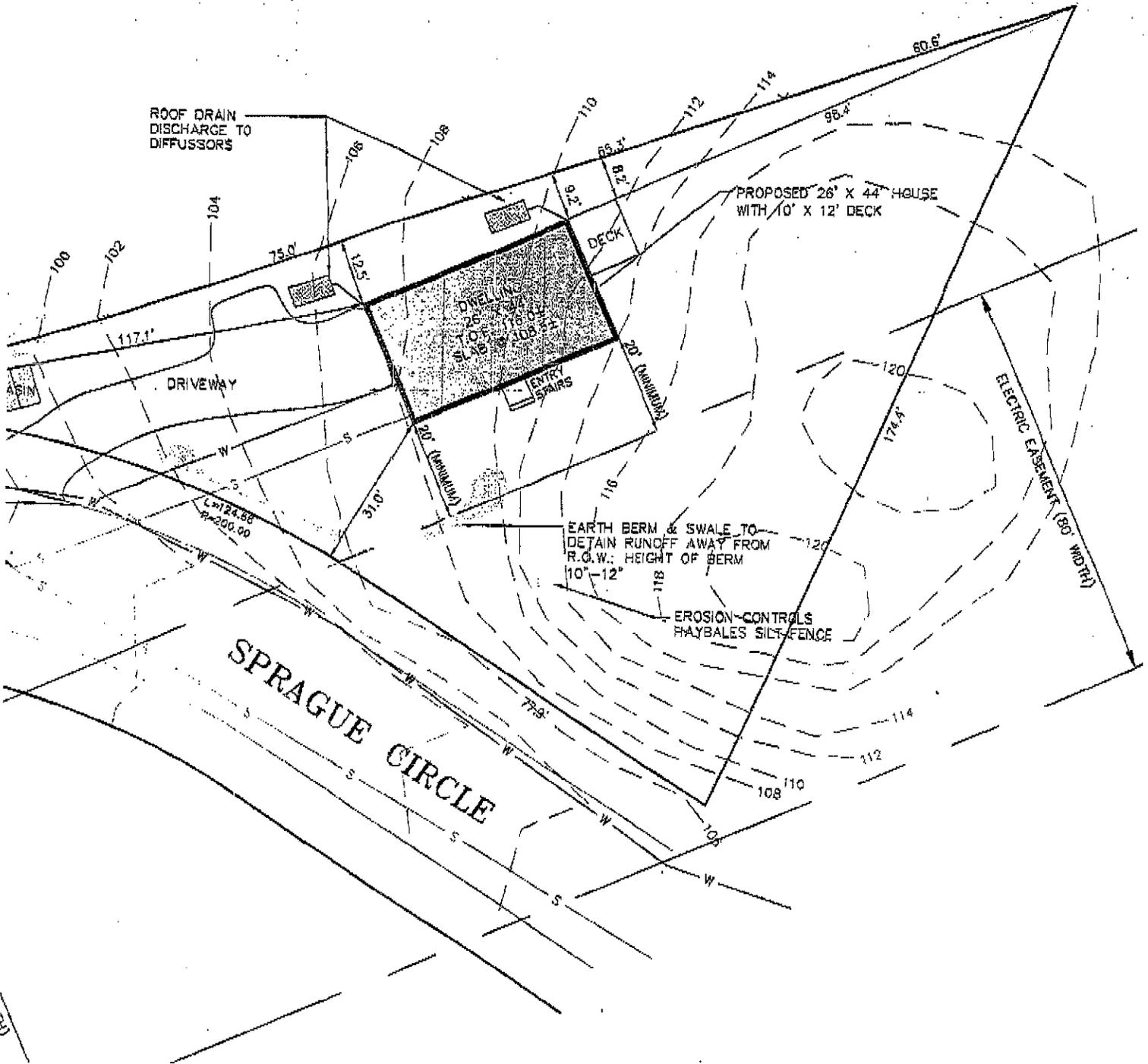
Based on a review of the submitted sight plan, we have noticed that the Building Envelop is 20' (feet) off the electric easement. We are requesting your approval on this setback before any building permits are issued. Please review the enclosed plan and advise.

You may contact me at any time if further information is needed.


Bernard J. Nascenzi C.B.O.
Building Official


Lorraine Caruso, P.E.
Town Engineer

Cc: Makram Megalli, P.E. / Director of Public Works
Elizabeth A. Fresolone / National Grid



National Grid's Responses to
The Town of Johnston Zoning Board of Review/Town of Johnston Planning Board
Advisory Opinion Proposed Limiting Conditions

1. *National Grid shall reimburse the Town pursuant to R.I. Gen. Laws § 42-98-9.1 and EFSB Rules of Practice and Procedure 1.21.*

National Grid Response 1: National Grid has reimbursed the Town for the cost of the McGavran Report. National Grid is not aware of any other expenditures by the Town that qualify for reimbursement.

2. *The EFSB should impose a setback from the edge of the right of way of 20' for any new construction. See Expert Findings of Ted McGavran, P.E. attached hereto as exhibit A.*

National Grid Response 2: National Grid believes that it is beyond the jurisdiction of the EFSB to regulate the use of property outside of the right-of-way or owned by parties other than National Grid.

3. *National Grid shall designate an employee to be contacted by Town Residents with any questions/concerns regarding the project.*

National Grid Response 3: As it has in previous projects, National Grid will designate an employee as an ombudsman to be contacted by Town residents and officials with any questions during the construction of the Project.

4. *All necessary permits from Federal and State agencies shall be acquired prior to construction.*

National Grid Response 4: National Grid will obtain all necessary permits before starting construction of the Project.

5. *National Grid shall provide Town with copies of all applications for any permits associated with the project within five (5) days of application submittal.*

National Grid Response 5: National Grid will provide the Town with copies of any future permit applications for Town related permits within five (5) days of submittal of the application.

6. *Upon reasonable notice to National Grid, the Town's designated representatives shall have the right to inspect the project site for conformance with permits issued by regulating agencies.*

National Grid Response 6: Designated Town representatives may inspect the Project site for conformance with permits issued by the Town of Johnston

upon not less than three (3) business days' notice, with a National Grid escort and subject to the use of appropriate personal protective equipment.

7. *National Grid shall work with RIDOT to come up with a traffic mitigation plan during construction of the Project. National Grid shall be required to notify and include the Town in approving the traffic mitigation plan. Furthermore, there will be Town input and public notice in advance of finalizing the plan, so that abutting neighbors can have meaningful input.*

National Grid Response 7: National Grid will prepare appropriate traffic control plans for the Project. It will consult with the Town for the plan for state highways and local streets. While National Grid welcomes input from appropriate Town officials, traffic control plans are designed in accordance with the Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD). Therefore, National Grid does not believe that public input is appropriate.

8. *National Grid shall email/mail construction schedules on a two (2) week cycle during the duration of the project to Town and abutters.*

National Grid Response 8: National Grid will email Project updates every two (2) weeks for the duration of construction to Town officials and other interested citizens who provide a contact e-mail address to the Project.

9. *National Grid shall provide a Spill Prevention Plan detailing how it will control any oil, lubricants and/or other contaminants which might escape from any equipment at the site during construction or after construction.*

National Grid Response 9: In addressing the potential impact of the Project on groundwater, National Grid stated "Equipment used for the construction of the transmission line will be properly maintained and operated to reduce the chances of spill occurrences of petroleum products. Refueling of equipment will be conducted in upland areas. Within primary groundwater recharge areas, special safeguards will be implemented to assure the protection of groundwater resources. Refueling equipment will be required to carry spill containment and prevention devices (i.e., absorbent pads, clean up rags, five gallon containers, absorbent material, etc.) at all times. In addition, maintenance equipment and replacement parts for construction equipment will be on hand to repair failures and stop a spill in the event of equipment malfunction." (Project Environmental Report ("ER") § 8.4.1.) National Grid maintains specifications for construction contractors and best management practices for right-of-way construction and maintenance which address this issue. In addition, National Grid Environmental Guidance EG-502RI contains detailed Spill Response Procedures and Notifications. National Grid believes that it is not necessary to prepare another plan dealing with this subject.

10. *National Grid shall provide funding for the engagement of an independent environmental consultant to monitor construction impacts.*

National Grid Response 10: National Grid objects as this would duplicate the environmental monitoring to which National Grid is committed. As explained in the ER, National Grid will retain a qualified environmental consultant to serve as environmental monitor to enforce compliance with all permit requirements and National Grid company policies for the duration of the construction process. (ER, § 4.4.8.)

11. *Noise during construction shall be mitigated.*

National Grid Response 11: Noise will be mitigated during construction (see ER, §8.11.4.)

12. *National Grid shall provide for solid waste disposal at a regulated and licensed landfill for any debris resulting from the construction.*

National Grid Response 12: National Grid has committed to disposing of debris at approved disposal facilities (See ER, §4.4.5.)

13. *Any outdoor lighting, during construction or after construction, shall be hooded and directed so as not to shine directly upon the abutting property or public roads.*

National Grid Response 13: Lighting is typically not provided on transmission line rights-of-way and no permanent lighting is proposed in Johnston as part of the Project. However, in the event of night construction at a highway crossing, emergency restoration of facilities, or extended construction hours, lighting could be used in the specific area affected. Any such work will be coordinated with appropriate state and town officials.

14. *National Grid shall provide an employee who can be contacted by the Town with any information that the Town requires regarding the status and location of the ROW.*

National Grid Response 14: The location of the Project right-of-way is shown on plans which National Grid has provided to the Town of Johnston. The Project ombudsman can be contacted by Town officials for any additional information (see the response to No. 3.)

15. *National Grid shall provide, prior to construction, copies of easements granting the ROW to National Grid in the Town as well as the plans referenced in said easements.*

National Grid Response 15: National Grid has previously provided book and page citations to the easements for the right-of-way. The easements and plans are recorded in the Johnston Land Evidence Records.

16. *National Grid shall review the ROW abutters' electrical grounding plans for buildings and/or swimming pools and/or structures at no cost to the Town or the abutters.*

National Grid Response 16: Electrical grounding plans for structures and swimming pools are subject to the requirements of the National Electric Code (NEC). Responsibility for facility compliance with NEC requirements rests with property owners and their electricians. Review and approval of such facilities for compliance with NEC requirements rests with local code enforcement officers.

17. *National Grid shall identify all existing structures including structures in the ROW and all proposed structures that it owns in the Town along with the cost of each structure.*

National Grid Response 17: The locations of existing and proposed structures in the right-of-way are shown in the plans previously provided to the Town of Johnston. National Grid objects to providing any additional information as it is beyond the scope of the matters before the boards.

September 1, 2009

April 7, 2009

COPY

BY FAX & U.S. MAIL

Bernard J. Nascenzi, C.B.O.
Town of Johnston
100 Irons Avenue
Johnston, RI 02919

RE: AP 7, Lot 144 – Sprague Circle

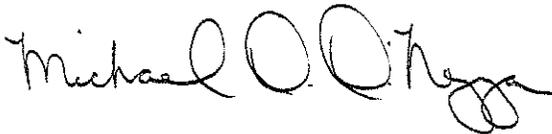
Dear Mr. Nascenzi:

Regarding your letter to Joseph Tumidajski dated March 31, 2009, National Grid has no issues with the proposed development of the above-referenced lot provided that all structures, above and below ground, are located outside of the Narragansett Electric Company (“TNEC”) easement.

The plan excerpt that accompanied your letter, a copy of which is attached, shows a twenty (20) foot offset from the proposed dwelling to the edge of easement. If the lot is developed accordingly, it will have no impact on the rights of TNEC. Since the plan doesn't appear to show any grading we assume that none is proposed within the easement. Should this not be the case, the developer must submit a detailed grading plan to TNEC for review and approval.

Should you have any questions with this issue or with any other building matter that affects a TNEC fee or easement, please feel free to contact me.

Sincerely,



Attachment

cc: Elizabeth A. Fresolone, National Grid
Joseph Tumidajski, National Grid

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

IN RE: THE NARRAGANSETT ELECTRIC
 COMPANY (WARREN SUBSTATION)

DOCKET NO. 2397

Report and Order

On February 12, 1996, the Narragansett Electric Company ("Company" or "Narragansett") filed an appeal to the Public Utilities Commission ("Commission"), pursuant to R.I.G.L. § 39-1-30, of a determination by the electrical inspector for the Town of Warren ("Warren") that an electrical permit and electrical inspection were necessary for the upgrade of Narragansett's Warren Substation.

Narragansett's Substation No. 5 on Martin Street was to be upgraded in order to provide continued reliable service to the Company's Warren, Bristol and Barrington area customers served through this substation. The Warren Zoning Board of Review approved a Special Use Permit under the Warren Zoning Ordinance for this upgrade on November 8, 1995. Narragansett sought a building permit on January 18, 1996, for the substation control house. This was ultimately issued on February 5, 1996. However, the Company was advised that the Warren electrical inspector had determined that an electrical inspection and permit were necessary for the substation upgrade. The Warren Town Solicitor confirmed this position by letter, and the appeal followed.

A hearing was conducted at the Commission's offices, 100 Orange Street, Providence, on March 22, 1996. Appearances were entered by:

FOR THE COMPANY: Peter V. Lacouture, Esq.

FOR WARREN: Anthony DeSisto, Esq.

FOR THE COMMISSION: Adrienne G. Southgate, Esq.

The sole witness was A. Robert LaBarre, Director of Retail Engineering for the Company. Mr. LaBarre described the control house, which is a 20' x 40' single-story structure containing the electronic equipment which operates the substation. He testified that the control house would be used exclusively for controlling the transformation and distribution of electricity at and from the substation. No ancillary electrical facilities, such as a kitchen or bathroom, will be constructed as part of the control house; however, the facility will be equipped with electric lighting.

Mr. LaBarre stated that the National Electric Code ("Electric Code") and the BOCA National Building Code ("Building Code") do not require electrical permits for any utility facilities which use electricity for non-generation or transmission purposes. Thus, offices, warehouses, or other buildings which include kitchens or bathrooms, would ordinarily be exempt from electrical inspections. However, Narragansett's practice is to apply for permits for such facilities.

The Electrical Code, Section 90-2(b)(5), states that it does not cover "installations under the exclusive control of electric utilities for the purpose

of communication, or metering; or for the generation, control, transformation, transmission and distribution of electric energy located in buildings used exclusively by utilities for such purposes. . . .” This section has an explanatory note, which expands upon the drafters’ intent:

It is the intent of this section that this Code covers all premises’ wiring or wiring other than utility owned metering equipment, on the load side of the service point of buildings, structures, or any other premises not owned or leased by the utility. Also, it is the intent that this Code cover installation in buildings used by the utility for purposes other than listed in (b)(5) above, such as office buildings, warehouses, garages, machine shops, and recreational buildings which are not an integral part of a generating plant, substation, or control center.

The Building Code provides that “the provisions of this code shall not apply to installations for electric supply...in the generation, transmission or distribution of electricity...or to installations located within or on buildings or premises used exclusively by such agency. . . .” Section 2700.2.1.

Rhode Island also exempts electrical work performed at substations from requirements that licensed electricians be employed. R.I.G.L. § 5-6-29 states:

The provisions of this chapter shall not apply to:

(1) The electrical work and equipment for the generation and primary distribution of electric current, or the secondary distribution system up to and including the meters, where that work and equipment is an integral part of the system owned and operated by an electric light and power company in rendering its duly authorized service....

Mr. LaBarre added that the Company has upgraded many of its substations across the state, but that Warren was unique in requiring electrical permits and inspections for construction.

For Warren, Mr. DeSisto presented no witnesses. He observed that Substation No. 5 is in a densely populated area. The Town's electrical inspector insisted that office use, warehouse use, or any other use not tied to the generation or transmission of electrical energy, was beyond the exemption conferred by the Electric and Building Codes. Given Mr. LaBarre's testimony that Narragansett workers need not be licensed electricians (although some are), the electrical inspector's concerns necessitated Warren's position that the matter required Commission guidance.

The Commission met in open meeting on March 26, 1996. The Commissioners commented that it was difficult to imagine that the drafters of the Electrical and Building Codes contemplated utility facilities without electric lights. Thus, Warren's contention that electrical inspection and permitting should be required for anything other than transmission or generation-related installations sweeps too broadly. The commissioners understood the concerns raised by the Town, but agreed that the Building and Electric Codes exempted substation wiring from municipal jurisdiction. They voted unanimously to sustain Narragansett's appeal.

Accordingly, it is

(14942) ORDERED:

The upgrade of the Warren Substation No. 5 is not subject to the requirements of an electrical permit or electrical inspection by the Warren Electrical Inspector.

DATED AND EFFECTIVE AT PROVIDENCE, RHODE ISLAND ON
MARCH 26, 1996.

PUBLIC UTILITIES COMMISSION

James J. Malachowski, Chairman *



Paul E. Hanaway

Paul E. Hanaway, Commissioner

Kate F. Racine

Kate F. Racine, Commissioner

*Chairman Malachowski did not participate.