



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

150 South Main Street • Providence, RI 02903

(401) 274-4400 - TDD (401) 453-0410

Peter F. Kilmartin, Attorney General

February 8, 2012

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

**In Re: National Grid's Tariff Advice for Approval of Long-Term Contracting
Docket No. 4308**

Dear Luly,

Enclosed please find for filing with the Commission on behalf of the Division of Public Utilities and Carriers ("Division"), an original and nine (9) copies of the Division's Motion to Compel More Responsive Answers to the Division's First Set of Data Requests addressed to National Grid on January 12, 2012 in the above entitled matter.

Very truly yours,

Jon Hagopian

Special Assistant Attorney General

JGH/mec

Encl.

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

In Re: Tariff Advice Filing for Approval of Long-Term Contracting For Renewable Energy Recovery Provision and to Amend R.I.P.U.C. No. 2036, Transmission Service Cost Adjustment Provision; and Application for Approval of Long-Term Contracting for Renewable Energy Recovery Factor Filing

Docket 4308

DIVISION OF PUBLIC UTILITIES AND CARRIERS MOTION TO COMPEL MORE RESPONSIVE ANSWERS ADDRESSED TO THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID

Now comes the Division of Public Utilities and Carriers (the "DPUC") pursuant to Rule 1.18 of the Public Utilities Commission's (the "Commission") Rules of Practice and Procedure and hereby requests an order compelling more responsive answers to the following data requests.

On the 12th day of January 2012, the Division propounded the Division's First Set of Data Requests to the Narragansett Electric Company d/b/a National Grid.¹

Division Data Request 1-5:

1-5) Please provide a copy of the legal bills associated with the \$105,582 of outside legal expense identified as associated with the cable project.

Response:

Based on the Company's concerns regarding the privileged and confidential nature of its legal invoices and pursuant to a verbal agreement with the Division regarding the scope of this request, the Company is providing a breakdown of the \$105,582 of outside legal costs associated with the cable project as follows:

Matter Name: Rhode Island Renewables Transmission Cable (Deepwater)
Firm: Day Pitney LLP

¹ Division Data Requests Set I attached hereto as Exhibit "A".

Firm Name	Invoice Date	Total \$
Day Pitney LLP	12/29/2009	\$10,633.70
Day Pitney LLP	1/25/2010	\$24,175.35
Day Pitney LLP	1/28/2010	\$4,025.50
Day Pitney LLP	3/16/2010	\$7,067.25
Day Pitney LLP	3/18/2010	\$18,048.45
Day Pitney LLP	3/19/2010	\$9,677.90
Day Pitney LLP	6/18/2010	\$380.70
Day Pitney LLP	6/22/2010	\$380.70
Day Pitney LLP	9/15/2010	\$1,015.00
Day Pitney LLP	11/12/2010	\$445.50
Day Pitney LLP	11/12/2010	\$1,092.80
Day Pitney LLP	12/13/2010	\$5,346.00
Day Pitney LLP	1/12/2011	\$891.00
Day Pitney LLP	2/28/2011	\$4,187.70
Day Pitney LLP	3/1/2011	\$136.60
Day Pitney LLP	3/10/2011	\$2,182.95
Day Pitney LLP	3/18/2011	\$559.35
Day Pitney LLP	4/12/2011	\$2,182.95
Day Pitney LLP	7/14/2011	\$5,872.50
Day Pitney LLP	8/10/2011	\$828.00
Day Pitney LLP	9/15/2011	\$1,188.00
Day Pitney LLP	10/12/2011	\$1,908.00
<u>Division 1-5 (continued, p2)</u>		
Day Pitney LLP	11/14/2011	\$2,920.00
Day Pitney LLP	11/16/2011	\$212.00
Day Pitney LLP	11/16/2011	\$92.00
Day Pitney LLP	11/16/2011	\$132.00
		\$105,581.90

Prepared by or under the supervision of: Legal Department

INFORMATION SOUGHT:

Argument:

The response of National Grid lists a date and separate amounts totaling \$105,581.90 without any other detail as to the personnel responsible for performing the purported legal service (e.g. partner, associate, and/or paralegal); the relevant billing rates; and the nature of the service rendered in connection with a line item. This is the nature and type of detail which encompasses a responsive answer. The response of National Grid here is entirely devoid of this

level of basic detail. This level of detail could in no way be considered privileged and it is quite doubtful that the documents requested reach far beyond this type of detail. If necessary, the proper mechanism to protect against divulging privileged information is for an in camera inspection of the requested documents by the Commission to dispose of the issue.

National Grid claims to have made a verbal agreement with the Division to limit the information in the manner and scope of its response. The Division however made no such agreement to allow National Grid to avoid providing the detail supporting the legal work claimed to have been provided which underlies these legal fees. The undersigned counsel had no communication with National Grid Counsel regarding this putative verbal agreement and was not aware that National Grid Counsel may have had communications without Division Counsel consent with a Division staff member. Division non lawyer staff is not in a position to form a legal opinion without counsel as to the matter National Grid asserts is somehow privileged and in fact the Division made no such agreement. National Grid has placed its request for legal fees at issue in this docket and unless it withdraws the request, it must provide the necessary detail required to assess whether the requests are proper and substantiated. Without reviewing the actual legal invoices, the Commission cannot pass on the validity of the requested legal fees and should not approve recovery of the claimed costs. The information in the response does not provide sufficient information for the Commission to make a reasonable judgment of the legitimacy of the legal fee request. The Division's data request for the type of documents requested here is common in courts of law where legal fee requests are routinely made. The Commission will be without sufficient basis to entertain the request for legal fees without review of the documents requested by the Division. Finally, there was no timely objection interposed to

the data requests at issue in accordance with Rule 1.18 of the Public Utilities Commission's Rules of Practice and Procedure.

Division Data Request 1-6:

1-6) Please provide a copy of the legal bills associated with the \$182,889 identified as pertaining to Docket 4185 (Deepwater).

Response:

Based on the Company's concerns regarding the privileged and confidential nature of its legal invoices and pursuant to a verbal agreement with the Division regarding the scope of this request, the Company is providing a breakdown of the \$386,801 of outside legal costs associated with Docket 4111 and 4185 (Docket 4185 - \$182,889 and Docket 4111 - \$203,912) as follows:

Matter Name: RHODE ISLAND RENEWABLES LONG TERM CONTRACTING (DEEPWATER)
Firm: Day Pitney LLP

Firm Name	Invoice Date	Total \$
Day Pitney LLP	11/19/2009	\$57,492.51
Day Pitney LLP	11/17/2009	\$22,679.02
Day Pitney LLP	12/14/2009	\$28,695.99
Day Pitney LLP	12/29/2009	\$2,194.30
Day Pitney LLP	12/29/2009	\$1,343.00
Day Pitney LLP	01/28/2010	\$17,176.50
Day Pitney LLP	01/19/2010	\$26,318.97
Day Pitney LLP	03/18/2010	\$8,383.95
Day Pitney LLP	03/19/2010	\$3,478.50
Day Pitney LLP	03/30/2010	\$12,868.20
Day Pitney LLP	03/30/2010	\$22,976.10
Day Pitney LLP	05/20/2010	\$304.65
Day Pitney LLP	06/18/2010	\$676.80
Day Pitney LLP	06/22/2010	\$676.80
Day Pitney LLP	07/21/2010	\$29,137.50
Day Pitney LLP	08/10/2010	\$7,966.22
Day Pitney LLP	09/14/2010	\$3,054.15
Day Pitney LLP	08/11/2011	\$4,040.00
Day Pitney LLP	10/12/2011	\$180.00
		\$249,643.16

Division 1-6 (continued, p2)

Note: The above legal fees relate to the PPAs and related matters in Docket 4111 and Docket 4185. \$46,036.12 relates to Docket 4185 as reflected by the highlighted invoices dated May 20, 2010 through October 12, 2011.

Matter Name: TNEC/Deepwater Appeal
Firm: Hinckley Allen & Snyder LLP

Firm Name	Invoice Date	Total \$
Hinckley Allen & Snyder LLP	9/21/2010	\$1,965.80
Hinckley Allen & Snyder LLP	10/14/2010	\$3,402.45
Hinckley Allen & Snyder LLP	11/10/2010	\$10,705.05
Hinckley Allen & Snyder LLP	12/15/2010	\$4,544.82
Hinckley Allen & Snyder LLP	1/28/2011	\$20,694.32
Hinckley Allen & Snyder LLP	8/23/2011	\$23,931.94
Hinckley Allen & Snyder LLP	3/15/2011	\$4,770.30
Hinckley Allen & Snyder LLP	3/17/2011	\$1,541.25
Hinckley Allen & Snyder LLP	4/22/2011	\$12,054.76
Hinckley Allen & Snyder LLP	8/17/2011	\$10,882.80
Hinckley Allen & Snyder LLP	8/18/2011	\$3,741.19
Hinckley Allen & Snyder LLP	8/23/2011	\$763.02
		\$98,997.70

Matter Name: TNEC/Deepwater PPA Procedural Matters
Firm: Hinckley Allen & Snyder LLP

Firm Name	Invoice Date	Total \$
Hinckley Allen & Snyder LLP	9/2/2010	\$37,001.75
Hinckley Allen & Snyder LLP	9/21/2010	\$1,158.44
		\$38,160.19

Prepared by or under the supervision of: Legal Department

INFORMATION SOUGHT

Argument:

The response of National Grid lists a date and separate amounts totaling \$386,801.05 without any other detail as to the personnel responsible for performing the purported legal

service (e.g. partner, associate, and/or paralegal); the relevant billing rates; and the nature of the service rendered in connection with a line item. This is the nature and type of detail which encompasses a responsive answer. The response of National Grid here is entirely devoid of this level of basic detail. This level of detail could in no way be considered privileged and it is quite doubtful that the documents requested reach far beyond this type of detail. The proper mechanism to protect against divulging privileged information is for an in camera inspection of the requested documents by the Commission to dispose of the issue.

National Grid claims to have made a verbal agreement with the Division to limit the information in the manner and scope of its response. The Division however made no such agreement to allow National Grid to avoid providing the detail supporting the legal work claimed to have been provided which underlies these legal fees. The undersigned counsel had no communication with National Grid Counsel regarding this putative verbal agreement and was not aware that National Grid Counsel may have had communications without Division Counsel consent with a Division staff member. Division non lawyer staff is not in a position to form a legal opinion without counsel as to the matter National Grid asserts is somehow privileged and in fact the Division made no such agreement. National Grid has placed its request for legal fees at issue in this docket and unless it withdraws the request, it must provide the necessary detail required to assess whether the requests are proper and substantiated. Without reviewing the actual legal invoices, the Commission cannot pass on the validity of the requested legal fees and should not approve recovery of the claimed costs. The information in the response does not provide sufficient information for the Commission to make a reasonable judgment of the legitimacy of the legal fee request. The Division's data request for the type of documents

requested here is common in courts of law where legal fee requests are routinely made. The Commission will be without sufficient basis to entertain the request for legal fees without review of the documents requested by the Division. Finally, there was no timely objection interposed to the data requests at issue in accordance with Rule 1.18 of the Public Utilities Commission's Rules of Practice and Procedure.

Division Data Request 1-7:

1-7) Please provide a copy of the legal bills associated with the \$203,912 identified as pertaining to Docket 4111 (Deepwater).

Response:

Please see the Company's response to DIV 1-6.

INFORMATION SOUGHT

Argument:

The response of National Grid lists a date and separate amounts totaling \$203,912 without any other detail as to the personnel responsible for performing the purported legal service (e.g. partner, associate, and/or paralegal); the relevant billing rates; and the nature of the service rendered in connection with a line item. This is the nature and type of detail which encompasses a responsive answer. The response of National Grid here is entirely devoid of this level of basic detail. This level of detail could in no way be considered privileged and it is quite doubtful that the documents requested reach far beyond this type of detail. The proper mechanism to protect against divulging privileged information is for an in camera inspection of the requested documents by the Commission to dispose of the issue.

National Grid claims to have made a verbal agreement with the Division to limit the information in the manner and scope of its response. The Division however made no such agreement to allow National Grid to avoid providing the detail supporting the legal work claimed to have been provided which underlies these legal fees. The undersigned counsel had no communication with National Grid Counsel regarding this putative verbal agreement and was not aware that National Grid Counsel may have had communications without Division Counsel consent with a Division staff member. Division non lawyer staff is not in a position to form a legal opinion without counsel as to the matter National Grid asserts is somehow privileged and in fact the Division made no such agreement. National Grid has placed its request for legal fees at issue in this docket and unless it withdraws the request, it must provide the necessary detail required to assess whether the requests are proper and substantiated. Without reviewing the actual legal invoices, the Commission cannot pass on the validity of the requested legal fees and should not approve recovery of the costs. The information in the response does not provide sufficient information for the Commission to make a reasonable judgment of the legitimacy of the legal fee request. The Division's data request for the type of documents requested here is common in courts of law where legal fee requests are routinely made. The Commission will be without sufficient basis to entertain the request for legal fees without review of the documents requested by the Division. Finally, there was no timely objection interposed to the data requests at issue in accordance with Rule 1.18 of the Public Utilities Commission's Rules of Practice and Procedure.

Division Data Request 1-9:

1-9) Please provide a copy of the legal bills associated with the \$74,394 pertaining to the Town of Johnston Project.

Response:

Based on the Company's concerns regarding the privileged and confidential nature of its legal invoices and pursuant to a verbal agreement with the Division regarding the scope of this request, the Company is providing a breakdown of the \$74,394 of outside legal costs associated with the Town of Johnston Project as follows:

Matter Name: Narragansett Ridgewood/Rhode Island Landfill Gas Project

Firm Name	Invoice Date	Total \$
Day Pitney LLP	5/12/2010	\$16,484.85
Day Pitney LLP	11/5/2010	\$895.95
Day Pitney LLP	12/8/2010	\$9,578.25
Day Pitney LLP	10/12/2010	\$2,984.85
Day Pitney LLP	11/5/2010	\$7,167.60
Day Pitney LLP	8/5/2010	\$1,219.03
Day Pitney LLP	7/21/2010	\$2,999.11
Day Pitney LLP	6/18/2010	\$33,064.90
		\$74,394.44

Prepared by or under the supervision of: Legal Department

INFORMATION SOUGHT

Argument:

The response of National Grid lists a date and separate amounts totaling \$74,394.44 without any other detail as to the personnel responsible for performing the purported legal service (e.g. partner, associate, and/or paralegal); the relevant billing rates; and the nature of the service rendered in connection with a line item. This is the nature and type of detail which encompasses a responsive answer. The response of National Grid here is entirely devoid of this

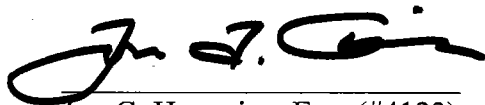
level of basic detail. This level of detail could in no way be considered privileged and it is quite doubtful that the documents requested reach far beyond this type of detail. The proper mechanism to protect against divulging privileged information is for an in camera inspection of the requested documents by the Commission to dispose of the issue.

National Grid claims to have made a verbal agreement with the Division to limit the information in the manner and scope of its response. The Division however made no such agreement to allow National Grid to avoid providing the detail supporting the legal work claimed to have been provided which underlies these legal fees. The undersigned counsel had no communication with National Grid Counsel regarding this putative verbal agreement and was not aware that National Grid Counsel may have had communications without Division Counsel consent with a Division staff member. Division non lawyer staff is not in a position to form a legal opinion without counsel as to the matter National Grid asserts is somehow privileged and in fact the Division made no such agreement. National Grid has placed its request for legal fees at issue in this docket and unless it withdraws the request, it must provide the necessary detail required to assess whether the requests are proper and substantiated. Without reviewing the actual legal invoices, the Commission cannot pass on the validity of the requested legal fees and should not approve recovery of the costs. The information in the response does not provide sufficient information for the Commission to make a reasonable judgment of the legitimacy of the legal fee request. The Division's data request for the type of documents requested here is common in courts of law where legal fee requests are routinely made. The Commission will be without sufficient basis to entertain the request for legal fees without review of the documents requested by the Division. Finally, there was no timely objection interposed to the data requests

at issue in accordance with Rule 1.18 of the Public Utilities Commission's Rules of Practice and Procedure.

WHEREFORE the Division respectfully requests the within Motion to Compel More Responsive Answers to the aforementioned data requests be granted and that National Grid be ordered to produce the requested documents on or before February 14, 2012.

Thomas Ahern, Administrator
State of Rhode Island
Division of Public Utilities and Carriers
By his attorney,



Jon G. Hagopian, Esq. (#4123)
Special Assistant Attorney General
State of Rhode Island
Department of Attorney General
150 South Main Street
Providence, R.I. 02903
Tel.: 401-274-4400

Dated: February 8, 2012

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of February, 2012, that I transmitted an electronic copy of the within Motion to the attached service list and to Luly Massaro, Division Clerk via electronic mail and regular mail.

Donna MacRae Daigle

Docket 4308 - National Grid's Tariff Advice for Approval Long-Term Contracting for Renewable Energy Recovery Provision and Amend Transmission Service Cost Adjustment Provision Reconciliation

Service List 1/10/12

Name/Address	E-mail Distribution	Phone/FAX
Jennifer Brooks Hutchinson, Esq. National Grid. 280 Melrose St. Providence, RI 02907	Jennifer.hutchinson@us.ngrid.com	401-784-7288
	Thomas.teehan@us.ngrid.com	401-784-4321
	Joanne.scanlon@us.ngrid.com	
Jon Hagopian, Esq. Dept. of Attorney General 150 South Main St. Providence, RI 02903	jhagopian@riag.ri.gov	401-222-2424
	Steve.scialabba@ripuc.state.ri.us	401-222-3016
	David.stearns@ripuc.state.ri.us	
	dmacrae@riag.ri.gov	
	Al.contente@ripuc.state.ri.us	
File an original & 10 copies w/: Luly E. Massaro, Commission Clerk Public Utilities Commission 89 Jefferson Blvd. Warwick RI 02889	Lmassaro@puc.state.ri.us	401-780-2017
	Cwilson@puc.state.ri.us	401-941-1691
	Anault@puc.state.ri.us	
	Nucci@puc.state.ri.us	
	Adalessandro@puc.state.ri.us	
	Dshah@puc.state.ri.us	

EXHIBIT A



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

150 South Main Street • Providence, RI 02903

(401) 274-4400 - TDD (401) 453-0410

Peter F. Kilmartin, Attorney General

January 12, 2012

Luly E. Massaro, Commission Clerk
Public Utilities Commission
89 Jefferson Boulevard
Warwick RI 02889-1046

**In Re: National Grid's Tariff Advice for Approval of Long-Term Contracting
Docket No. 4308**

Dear Luly:

Enclosed please find for filing with the Commission an original and (3) copies the Division of Public Utilities & Carriers First Set of Data Requests to National Grid in the above-referenced matter.

Thank you for your attention in this matter.

Very Truly Yours,

Jon G. Hagopian
Special Assistant Attorney General

JGH/dmm

Enclosure

cc: Service List (certified mail)

**STATE OF RHODE ISLAND
DIVISION OF PUBLIC UTILITIES AND CARRIERS**

In Re: Tariff Advice Filing for Approval of Long-Term Contracting For Renewable Energy Recovery Provision and to Amend R.L.P.U.C. No. 2036, Transmission Service Cost Adjustment Provision; and Application for Approval of Long-Term Contracting for Renewable Energy Recovery Factor Filing Docket 4308

**The Division of Public Utilities and Carriers
Data Requests to National Grid
SET I
January 12, 2012**

Division Data Request 1-1:

1-1) Regarding the \$120,730 identified as the Preliminary Engineering costs incurred (in total) in FY 2010, FY 2011, and FY 2012 to date, please provide a detailed listing of the composition of those costs. If those costs pertain to in-house National Grid personnel, please explain how recovery of those costs, either through the Transmission Service Cost Recovery Provision or through a FERC-approved transmission rate, does not constitute double-recovery as they would already be included in the utility revenue requirement.

Division Data Request 1-2:

1-2) Page 2 of the Company's filing letter indicates that the preliminary design and engineering costs of \$120,730 "will likely be capitalized and included in the annual revenue requirement." The Company is deferring recovery of these costs, ultimately intending to recover them through FERC-approved transmission service rates, according to the filing letter. The Company's filing also identifies \$105,582 incurred to date as the cost of outside legal counsel retained for the negotiation of the cable purchase. Why wouldn't these legal costs also be capitalized as part of the cable project and recovered as part of the transmission rate?

Division Data Request 1-3:

1-3) Is it accurate that under RIGL 39-26.1-7(f) the Company is authorized to make a FERC filing to put into effect transmission rates "to recover all of the costs associated with the purchase of the transmission cable and related facilities" ? If the answer is affirmative, wouldn't the outside legal costs associated with the cable purchase be a component of the

statutorily described cost category stated above and therefore be includable in the FERC filing?

Division Data Request 1-4:

1-4) Is it accurate that in accordance with the requirements of 39-26.1-7(f) the costs associated with the purchase of the transmission cable to Block Island included in the annual revenue requirement of the cable are subject to an allocation between the customers of National Grid and the Block Island Power Company?

Is it accurate that if the outside legal costs associated with the cable purchase are recovered as proposed by National Grid, through the proposed Long-Term Contracting For Renewable Energy Recovery Provision (LTCRER), then the customers of National Grid will pay all of those costs?

Division Data Request 1-5:

1-5) Please provide a copy of the legal bills associated with the \$105,582 of outside legal expense identified as associated with the cable project.

Division Data Request 1-6:

1-6) Please provide a copy of the legal bills associated with the \$182,889 identified as pertaining to Docket 4185 (Deepwater).

Division Data Request 1-7:

1-7) Please provide a copy of the legal bills associated with the \$203,912 identified as pertaining to Docket 4111 (Deepwater).

Division Data Request 1-8:

1-8) Please identify the nature of the \$15,000 consultant expense pertaining to Docket 4111.

Division Data Request 1-9:

1-9) Please provide a copy of the legal bills associated with the \$74,394 pertaining to the Town of Johnston Project.

Thomas Ahern, Administrator
State of Rhode Island
Division of Public Utilities and Carriers
By his attorney,



Jon G. Hagopian, Esq. (#4123)
Special Assistant Attorney General
State of Rhode Island
Department of Attorney General
150 South Main Street
Providence, R.I. 02903
Tel.: 401-274-4400

Dated: January 12, 2012

CERTIFICATION OF SERVICE

I hereby certify that on the 12th day of January, 2012, that I transmitted an electronic copy of the within Data Requests to the attached service list and to Luly Massaro, Division Clerk via electronic mail and regular mail.



**Docket 4308 - National Grid's Tariff Advice for Approval Long-Term Contracting for Renewable Energy Recovery Provision and Amend Transmission Service Cost Adjustment Provision Reconciliation
Service List 1/10/12**

Name/Address	E-mail Distribution	Phone/FAX
Thomas R. Teehan, Esq. National Grid. 280 Melrose St. Providence, RI 02907	<u>Thomas.teehan@us.ngrid.com</u>	401-784-7667 401-784-4321
	<u>Joanne.scanlon@us.ngrid.com</u>	
Jon Hagopian, Esq. Dept. of Attorney General 150 South Main St. Providence, RI 02903	<u>jhagopian@riag.ri.gov</u>	401-222-2424 401-222-3016
	<u>Steve.scialabba@ripuc.state.ri.us</u>	
	<u>David.stearns@ripuc.state.ri.us</u>	
	<u>dmacrae@riag.ri.gov</u> <u>Al.contente@ripuc.state.ri.us</u>	
File an original & 10 copies w/: Luly E. Massaro, Commission Clerk Public Utilities Commission 89 Jefferson Blvd. Warwick RI 02889	<u>Lmassaro@puc.state.ri.us</u>	401-780-2017 401-941-1691
	<u>Cwilson@puc.state.ri.us</u>	
	<u>Anault@puc.state.ri.us</u>	
	<u>Nucci@puc.state.ri.us</u>	
	<u>Adalessandro@puc.state.ri.us</u> <u>Dshah@puc.state.ri.us</u>	