

December 3, 2014

BY HAND DELIVERY & ELECTRONIC MAIL

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

**RE: Docket 4483 – In Re: Petition of Wind Energy Development, LLC and
ACP Land, LLC Relating to Interconnection
Responses to PUC Data Requests – Set 3**

Dear Ms. Massaro:

On behalf of National Grid¹, I have enclosed responses to the third set of data requests issued by the Rhode Island Public Utilities Commission on September 17, 2014 in the above-referenced matter. This filing is also accompanied by a Motion for Protective Treatment in accordance with Rule 1.2(g) of the PUC's Rules of Practice and Procedure and R.I.G.L. § 38-2-2(4)(i)(B). Therefore, pursuant to the PUC's Rules, I have enclosed one (1) copy of the unredacted confidential Attachment COMM 3-3 and ten (10) copies of the Company's responses for the PUC's review.

Thank you for your attention to matter. If you have any questions, please contact me at (781) 907-2121.

Sincerely,



Raquel J. Webster

Enclosures

cc: Docket 4483 Service List
Leo Wold, Esq.
Steve Scialabba, Division

¹ The Narragansett Electric Company d/b/a National Grid.

Certificate of Service

I hereby certify that a copy of the cover letter and/or any materials accompanying this certificate was electronically transmitted to the individuals listed below. Copies of this filing will be hand delivered to the RI Public Utilities Commission and to the RI Division of Public Utilities and Carriers.



8/29/14

**Docket No. 4483 – Wind Energy Development LLC & ACP Land, LLC –
Petition for Dispute Resolution Relating to Interconnection
Service List updated 7/29/14**

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John K. Habib, Esq. Keegan Werlin LLP 265 Franklin St. Boston, MA 02110-3113	jhabib@keeganwerlin.com	617-951-1400
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	Thomas.teehan@nationalgrid.com	
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Original & 9 copies to be filed w/: Luly E. Massaro, Commission Clerk Public Utilities Commission 89 Jefferson Blvd. Warwick, RI 02888	Luly.massaro@puc.ri.gov	401-780-2107
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	Alan.nault@puc.ri.gov	
Karen Lyons, Esq. Dept. of Attorney General	Klyons@riag.ri.gov	401-222-2424
	jmunoz@riag.ri.gov	
	dmacrae@riag.ri.gov	

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

**In Re: DG Interconnection Dispute Between
WED, LLC/ACP, LLC and National Grid**

Docket No. 4483

**NATIONAL GRID’S MOTION FOR PROTECTIVE TREATMENT
OF CONFIDENTIAL INFORMATION**

National Grid¹ respectfully requests that the Rhode Island Public Utilities Commission (PUC or Commission) provide confidential treatment and grant protection from public disclosure certain confidential, competitively sensitive, and proprietary information submitted in the above-captioned docket, as permitted by PUC Rule 1.2(g) and R.I.G.L. § 38-2-2(4)(B). National Grid also respectfully requests that, pending entry of that finding, the PUC preliminarily grant National Grid’s request for confidential treatment pursuant to Rule 1.2 (g)(2).

I. BACKGROUND

On December 3, 2014, National Grid filed with the PUC its responses to the PUC’s Third Set of Data Requests in this docket. In PUC data request 3-3, the PUC requests an un-redacted copy of the 2003 Private Letter Ruling request that National Grid filed in Massachusetts (PLR 200403084). The Company has submitted a confidential version of PUC Attachment COMM 3-3. This confidential attachment includes information provided to Internal Revenue Service in the context of a request for a ruling regarding the proper tax treatment of costs incurred by National Grid. Because National Grid considers this information as confidential and proprietary, National

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

Grid respectfully requests that the PUC treat the information contained in Attachment COMM 3-3 as confidential.

II. LEGAL STANDARD

The PUC's Rule 1.2(g) 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 the APRA to treat such information as 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 Rhode Island Supreme Court has held that this confidential information exemption applies where disclosure of information would likely 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 Company v. Convention Center Authority, 774 A.2d 40 (R.I. 2001). The first prong of the test is satisfied when information is voluntarily provided to the governmental agency and that information is of a kind that would customarily not be released to the public by the person from whom it was

obtained. Providence Journal, 774 A.2d at 47. National Grid meets the second prong of this test, which applies here.

II. BASIS FOR CONFIDENTIALITY

The Company seeks confidential treatment of information provided to the IRS in the context of request for a PLR. Release of this type of information would be commercially harmful to the Company and to its customers to the extent that the confidentiality of tax information typically provided to taxpayers by the IRS was waived in the context of providing this information to the PUC in the context of this proceeding. This information is confidential and privileged information of the type that the Company would ordinarily not make public.

III. CONCLUSION

Accordingly, the Company respectfully requests that the PUC grant protective treatment to the confidential information included in Attachment COMM 3-3.

WHEREFORE, for the foregoing reasons, the Company respectfully requests that the PUC grant its Motion for Protective Treatment.

Respectfully submitted,

NATIONAL GRID

By its attorney,



Raquel J. Webster
National Grid
40 Sylvan Road
Waltham, MA 02451
(781) 907-2121

Dated: December 3, 2014

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d/b/a National Grid
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COMM 3-1

Request:

According to National Grid's September 12 proposal, in the event of an IRS private letter ruling declaring that payments made to National Grid from customers interconnecting to the distribution system are not taxable, National Grid would be required to refund the tax reimbursement payments made by Petitioners. In the event of such an IRS ruling, will the Company file an amended tax return seeking a refund of overpaid taxes from the IRS instead of recovering that amount from ratepayers? If not, why not? If yes, why is it necessary to seek recovery through rates?

Response:

In the event of an IRS ruling declaring that contributions in aid of construction made to National Grid from customers interconnecting to the distribution system are not taxable, National Grid will seek a refund from the IRS for payments refunded to the Petitioners by submitting an affirmative adjustment to the IRS exam team during the IRS audit of the tax year in which the transaction subject to the ruling occurred. The Company's experience with amended returns indicates that filing an amended return will not likely result in a quicker refund. For this type of adjustment, the IRS will wait until the audit to process the refund. The Company will not seek to recover the payment to the Petitioners from customers if the IRS grants a refund request.

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COMM 3-2

Request:

Is the Company able to request from the IRS a notice, or other administrative rule having more general application than a private letter ruling, in order to avoid the necessity of filing multiple private letter rulings?

Response:

In the event that the IRS rules that Notices 88-129 and 2001-82 do not apply to distributed generation interconnections to distribution lines owned by a utility, the Company can approach the U.S. Department of the Treasury to seek an expansion of the safe harbor, similar to the expansion that occurred with the issuance of Notice 2001-82, following deregulation. Nonetheless, seeking a new notice is not an alternative to filing private letter ruling (PLR) requests because based on the Treasury's general practice, it may not see the need to issue a new notice until the IRS has issued an adverse PLR on this issue.

COMM 3-3

Request:

Provide the un-redacted copy of the 2003 PLR request that National Grid filed in Massachusetts (PLR 200403084). In addition to providing the un-redacted copy of PLR 200403084, describe the details of the distribution project (technology, size, location, use) that was the subject of PLR 200403084. Include in your response the following:

- a) Compare the details of the project that was the subject of the 2003 PLR to the WED and ACP, Land projects referred to in the January 15 Petition filed by WED, LLC and ACP, Land, including specifically all details which distinguish the 2003 PLR project from the WED and ACP, Land projects;
- b) The specific reason(s) why National Grid considers PLR 200403084 to be an insufficient legal basis to treat interconnection payments from WED, LLC and ACP Land, LLC projects as nontaxable.
- c) Explain why the Company is willing to rely on up to four PLRs to be filed in the future but not willing to rely on past PLRs obtained by the Company, such as PLR 200403084.

Response:

- a) PLR 200403084 was for a 4 MW landfill gas project in Plainville, Massachusetts that self-certified as a qualifying facility (QF) and that has minimal on-site load. The project is interconnected to a 23 kV sub-transmission line (2286) that is fed from Massachusetts Electric Company's Crocker Pond substation.

The Petitioners' projects are 1.5 – 4.5MW wind energy projects in size that may be eligible QFs. They are proposed to be connected to the Company's 12.47 kV distribution lines. However, to date, the Company has not seen any analysis that describes the energy flow or the amount of on-site load.

One distinction between the Petitioners' projects and the landfill gas project in PLR 200403084 is the type of line to which the Petitioners' projects will interconnect to the electric grid. In PLR200403084, the line was a 23 kV sub-transmission line, and for the Petitioners' projects, the line will be a 12.47 kV distribution line. Also, the uncertainty regarding the amount of on-site load for the Petitioners' projects and their QF status also distinguish the present facts from those presented in the 2003 PLR.

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COMM 3-3, page 2

- b) As a general principle, only the taxpayer requesting a ruling is permitted to rely on its conclusion. See Revenue Procedure 2014-1, Section 11.03. In addition, because a PLR is a determination with respect to “the taxpayer’s specific set of facts” (see PLR 2014-1, Section 2.01), the taxpayer can rely on that ruling only for the transaction described in the PLR request. Nonetheless, many taxpayers who seek to avoid legal and filing costs will rely on a pattern of consistent rulings for a particular subject. This practice is not without risk, but when the IRS has established a consistent position, reliance on this consistent position is still prudent management of tax risk.

The IRS has not established a pattern of consistent rulings with respect to the tax treatment of distribution generation interconnections under IRC Section 118(b). Importantly, since PLR 200403084 was issued more than a decade earlier for the interconnection of the Plainville facility to a sub-transmission line, only one other ruling may cover a similar fact pattern - PLR 201122005. Nonetheless, because the public version of the document is highly redacted, it is not possible to determine if the ruling, in fact, covers a distribution system interconnection.

As a result, National Grid has not determined that these two rulings are a sufficient basis to assume the tax risk of treating the interconnection payments from WED, LLC and ACP Land, LLC projects as nontaxable.

- c) As a matter of business judgment, the Company believes that up to four PLR requests covering a wide cross section of transactional variables, in addition to PLR 200403084, may be sufficient to create a pattern of consistent rulings. This is, of course, dependent on the consistency among the actual PLRs that the Company receives.

REDACTED

June 5, 2003

The Narragansett Electric Company
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**PRIVILEGED & CONFIDENTIAL
ATTORNEY WORK PRODUCT**

VIA HAND DELIVERY

Associate Chief Counsel (Passthroughs & Special Industries)
Courier's Desk
Internal Revenue Service
Attn: CC:PA:T, Room 6561
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

**RE: REQUEST FOR A LETTER RULING UNDER SECTION 118
OF THE INTERNAL REVENUE CODE WITH RESPECT
TO AMOUNTS RECEIVED IN CONNECTION WITH THE
CONTRIBUTION OF CERTAIN INTERCONNECTION
EQUIPMENT IMPROVEMENTS**

Ladies and Gentlemen:

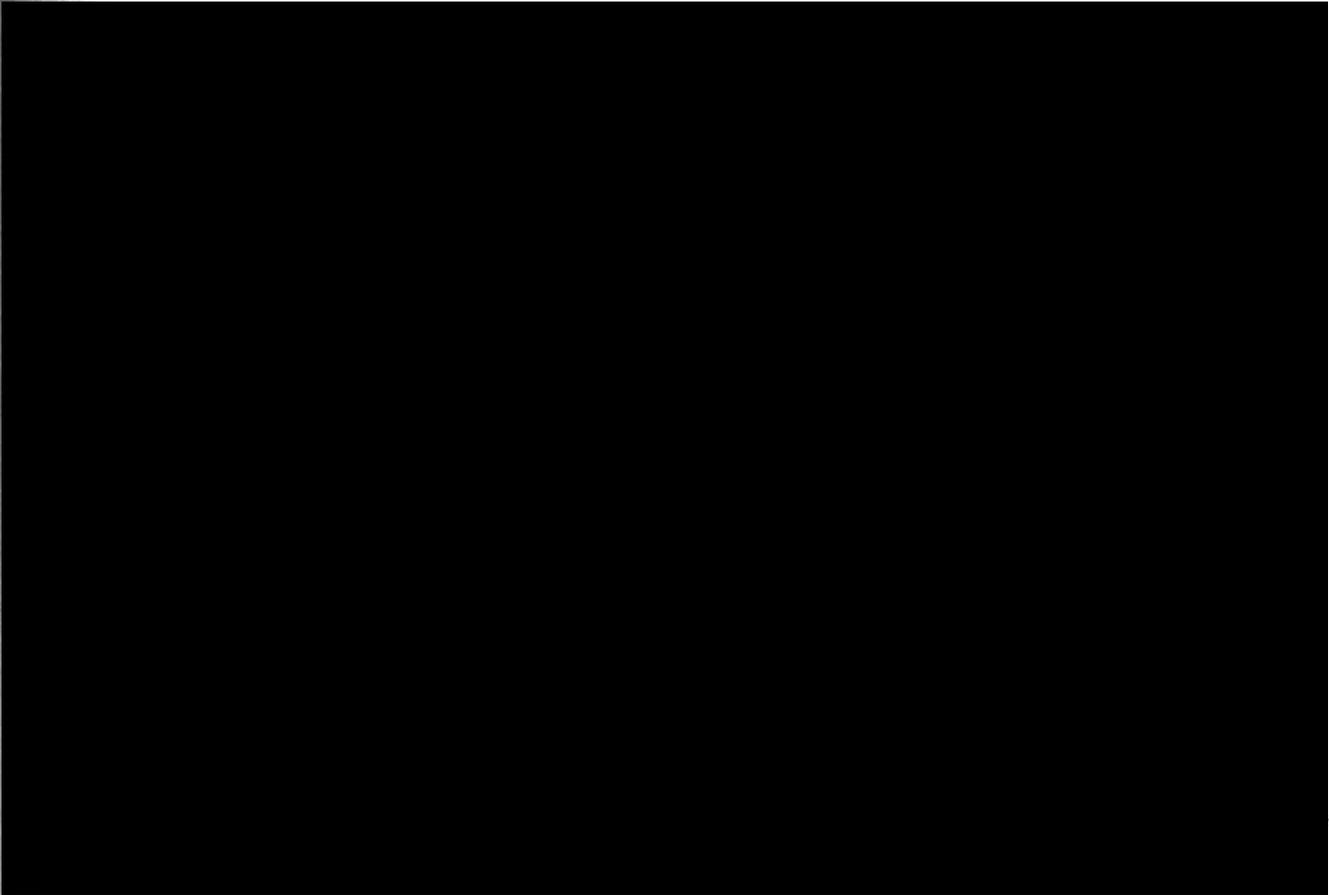


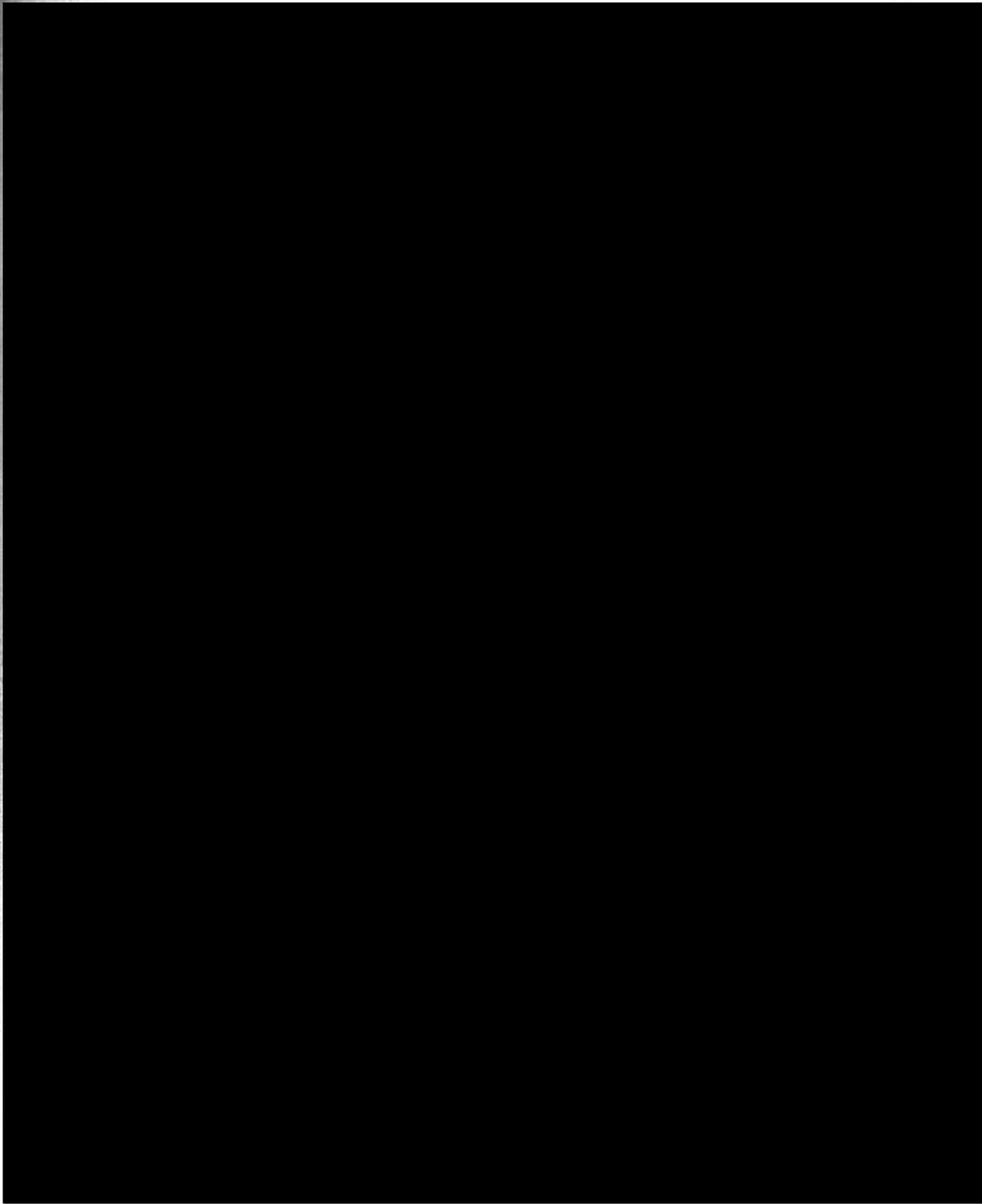
EXHIBIT A

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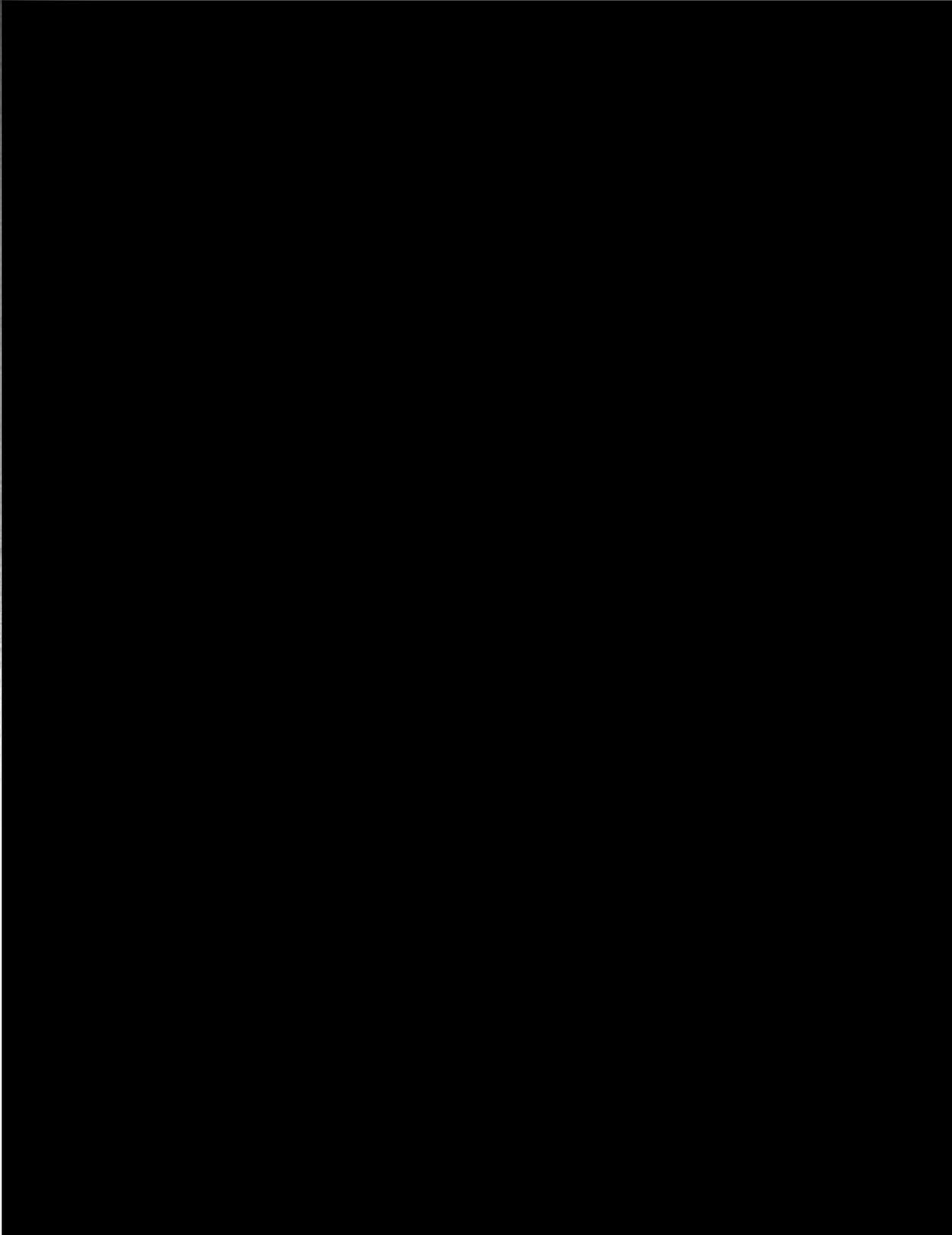
Exhibit A



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Page 3

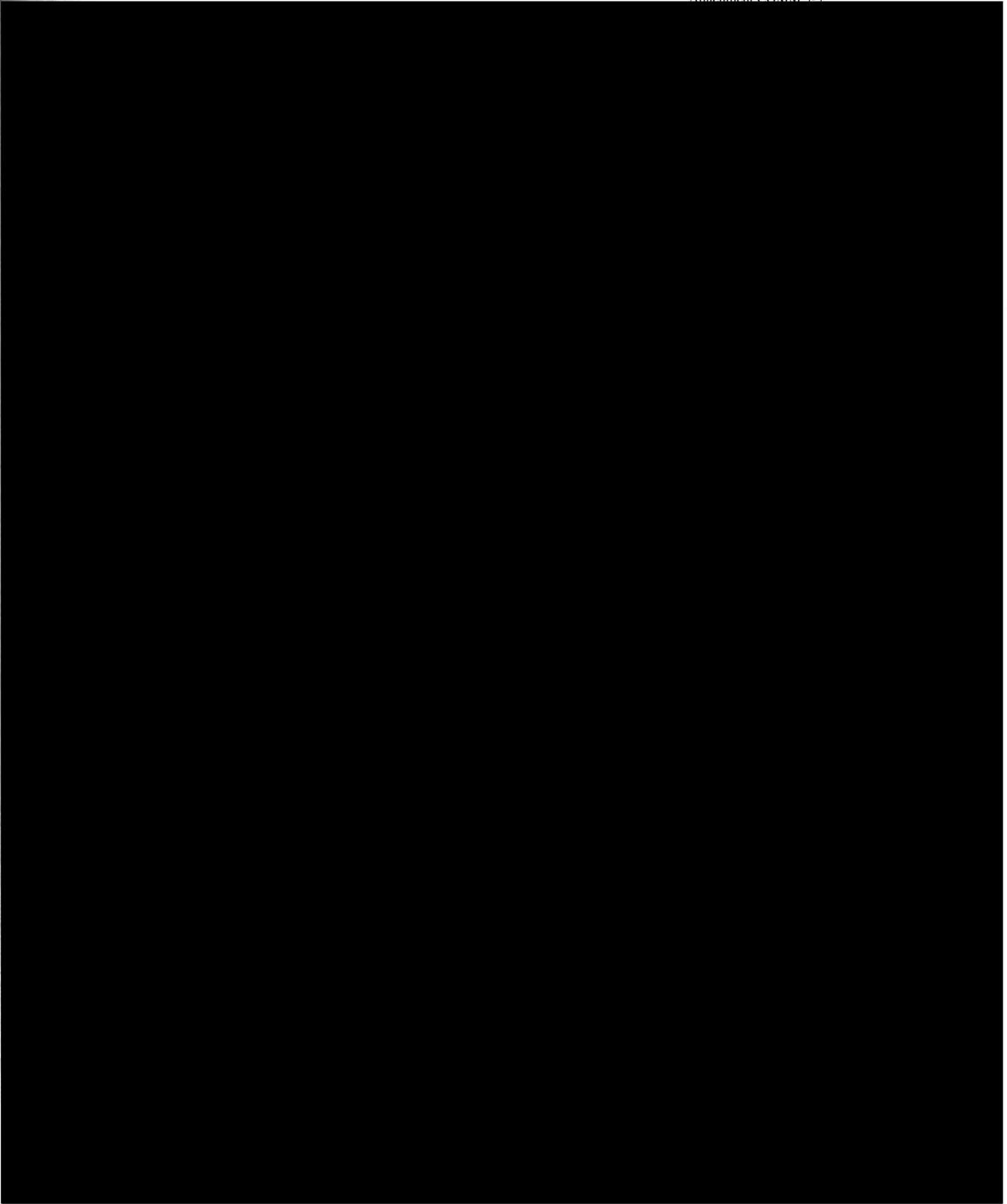
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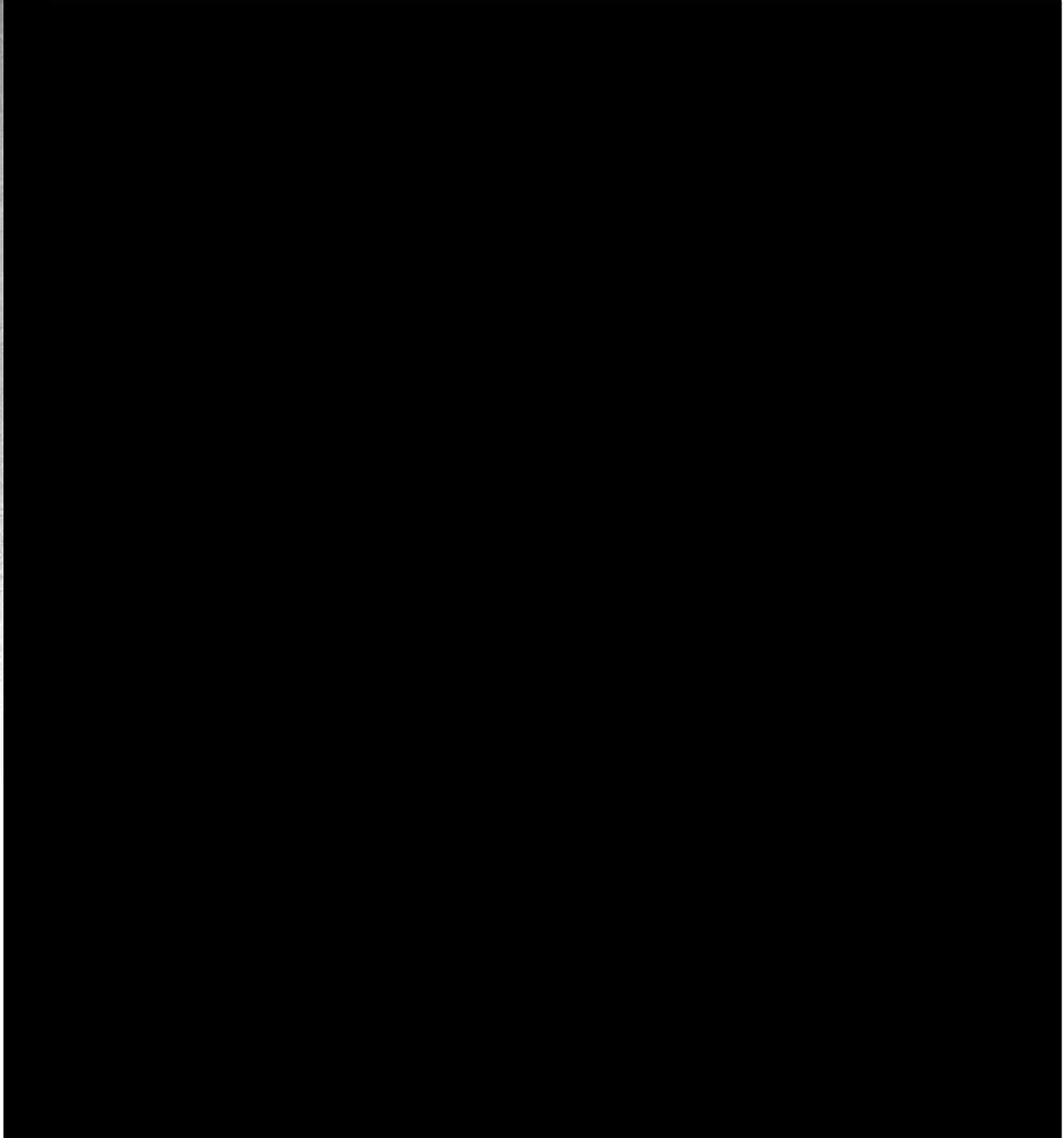
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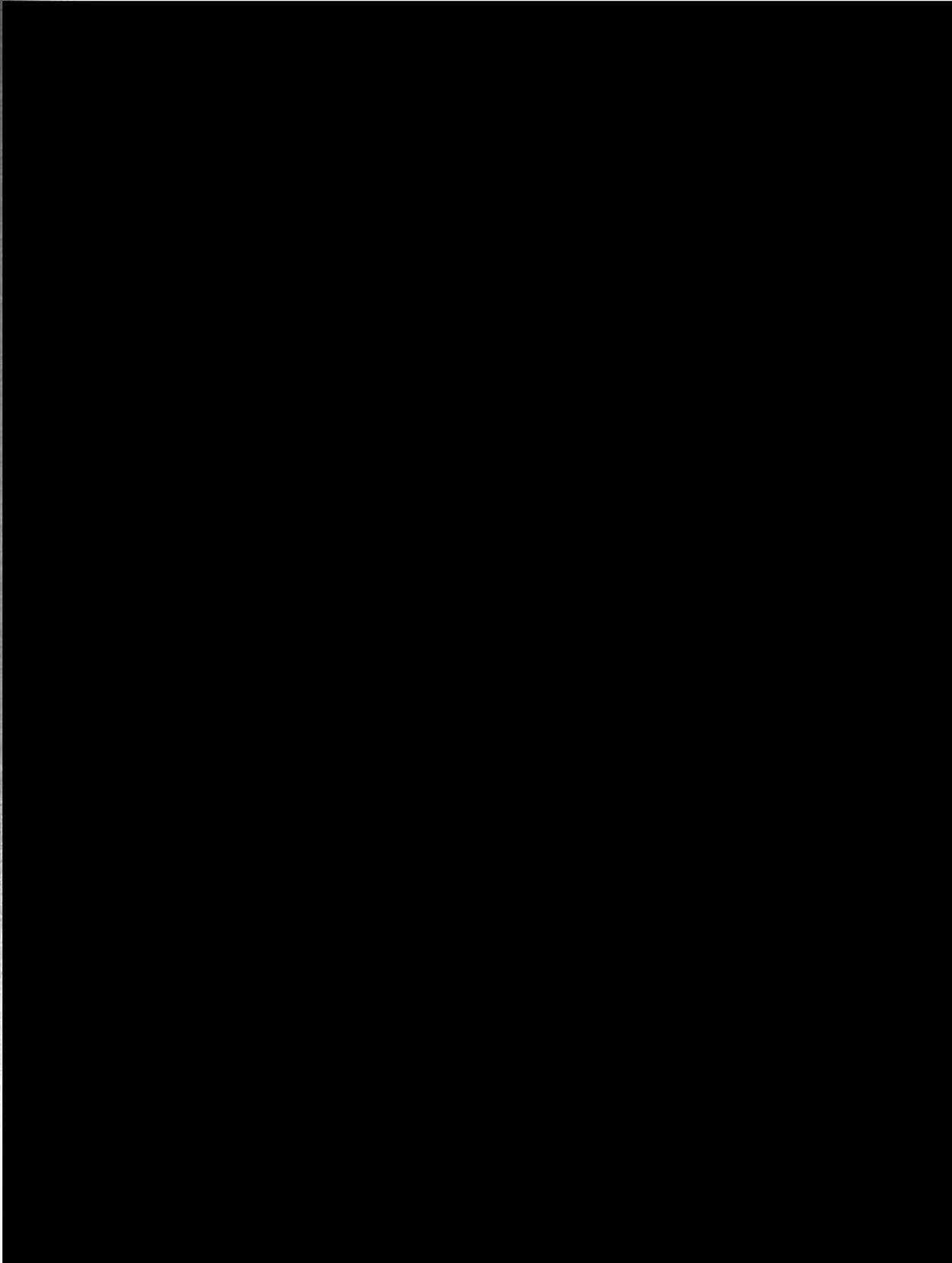
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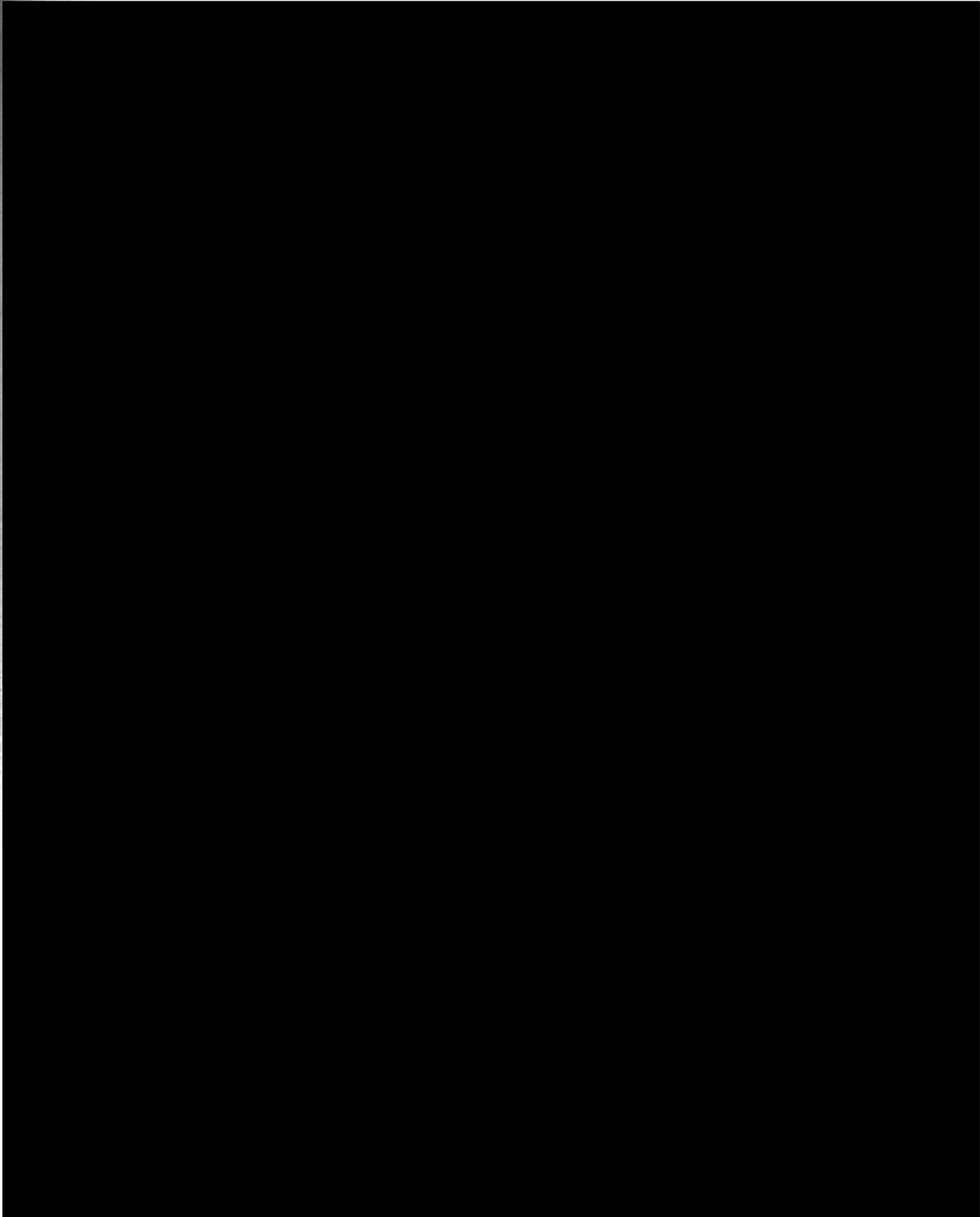
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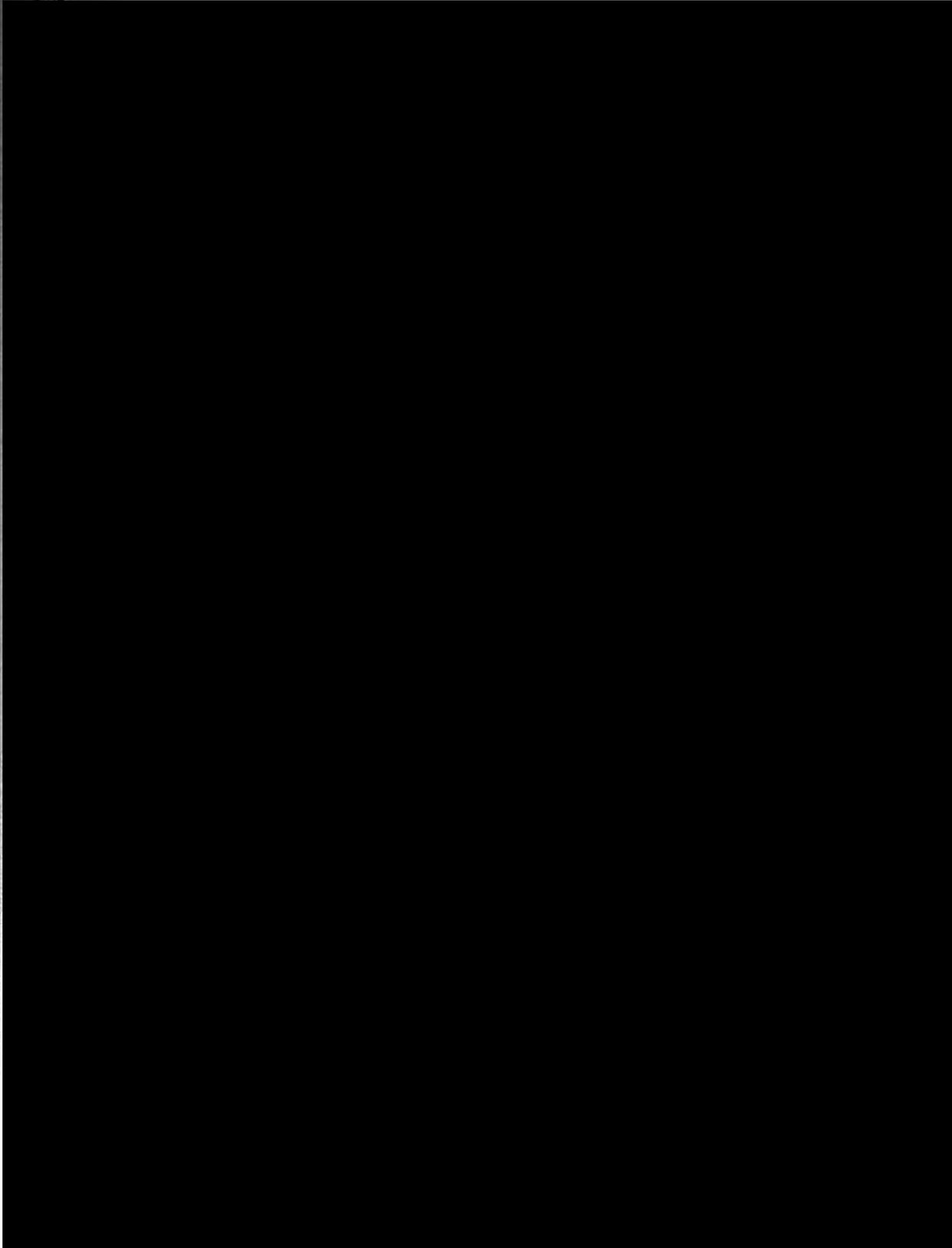
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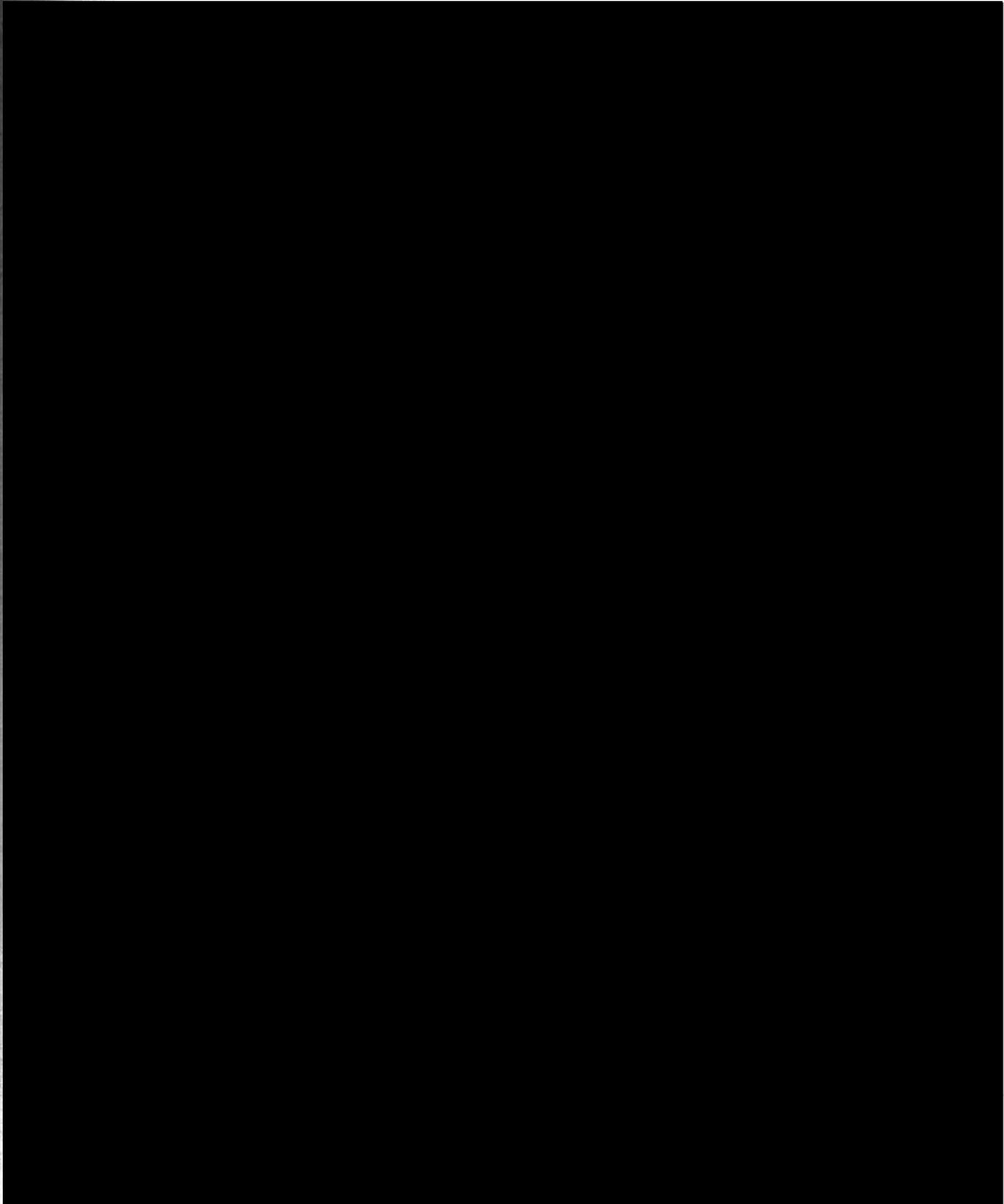


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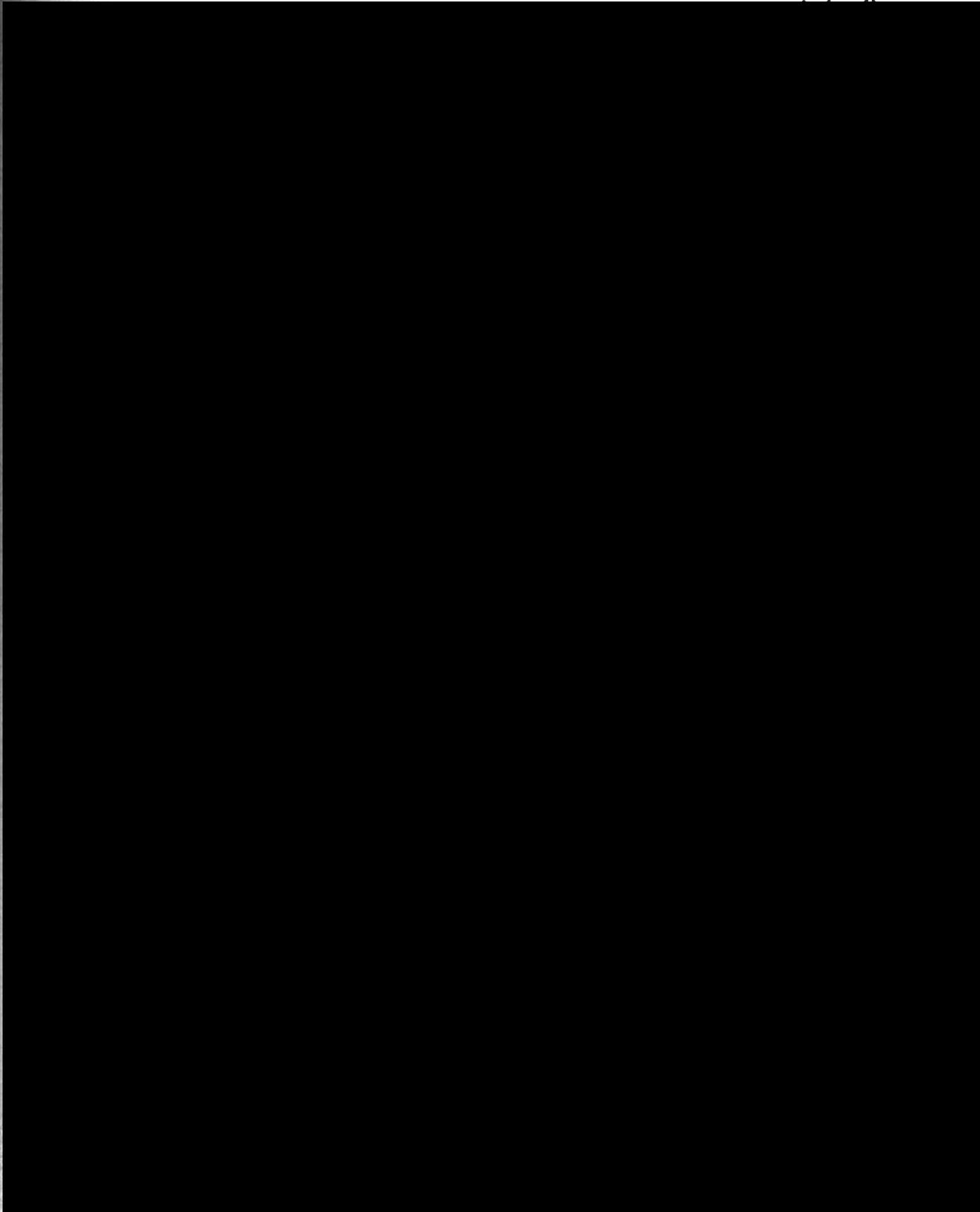
Exhibit A



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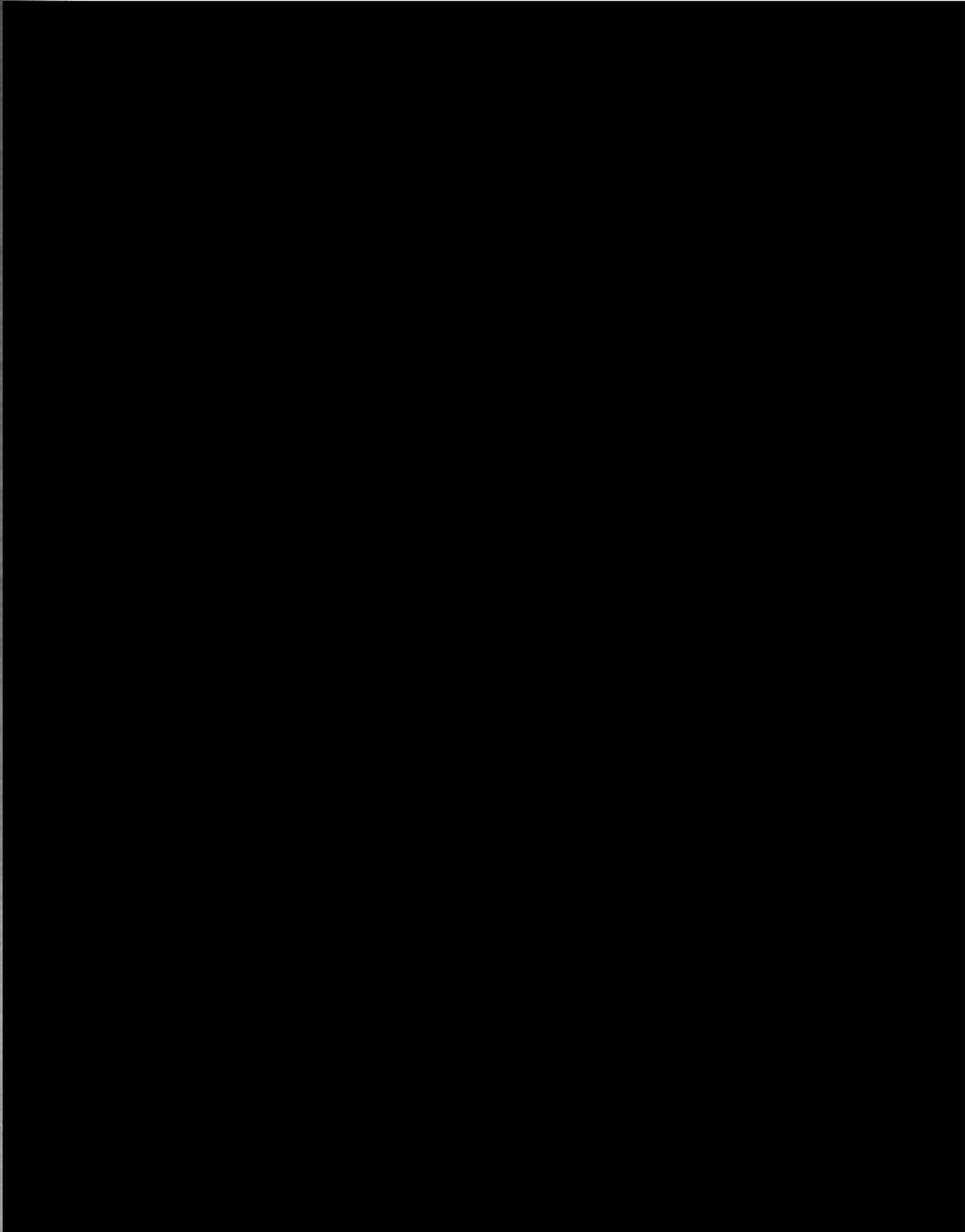
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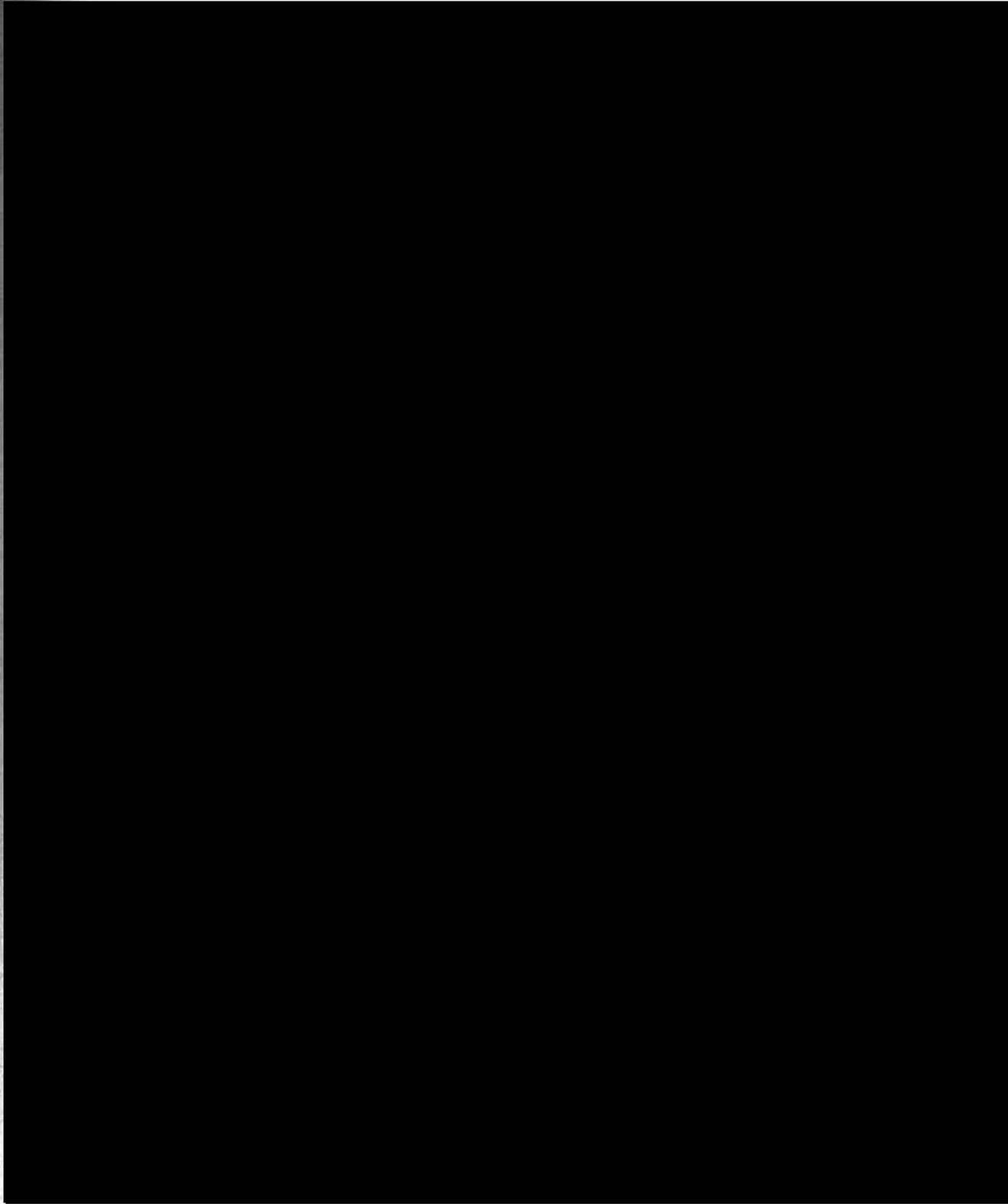
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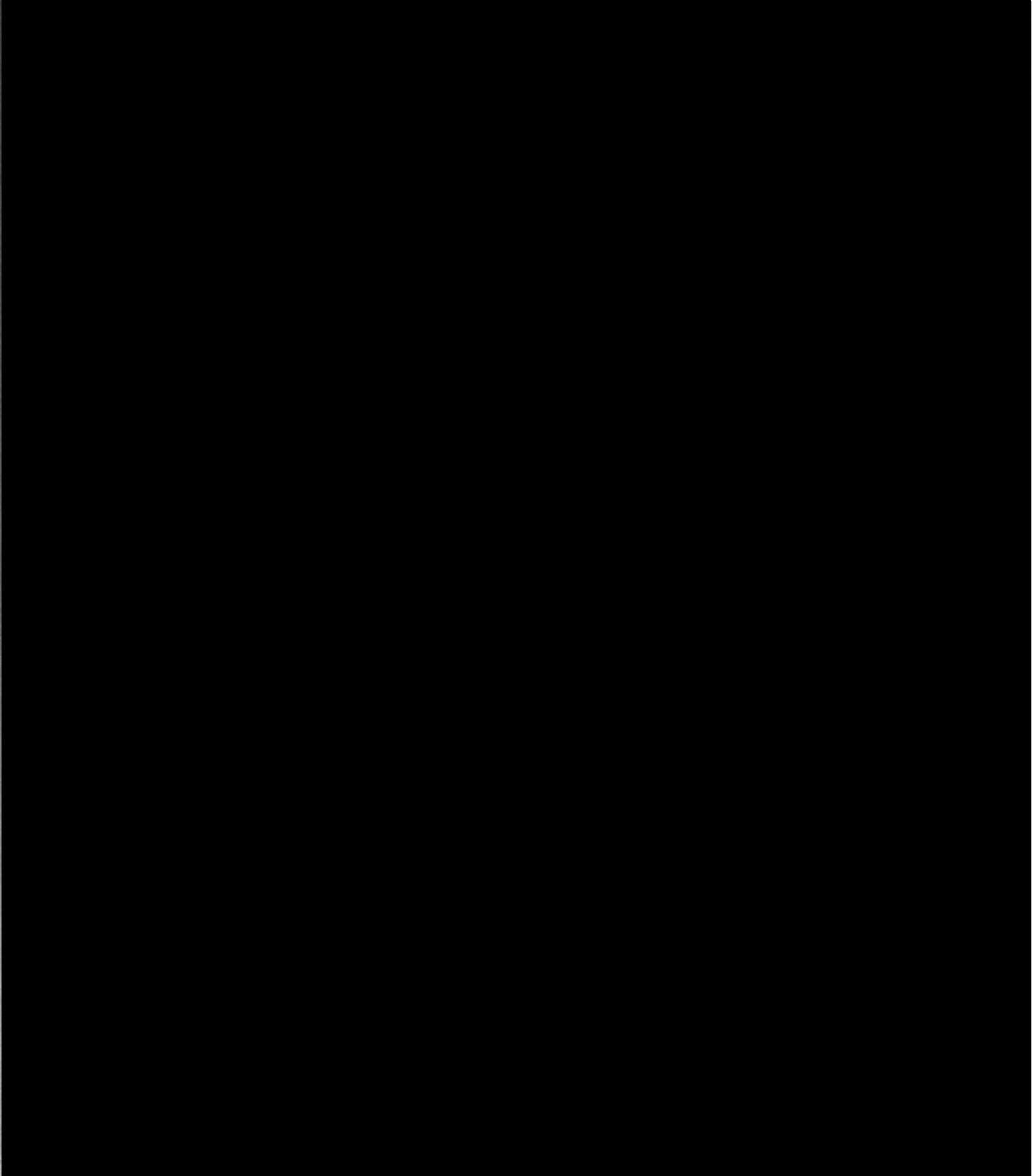
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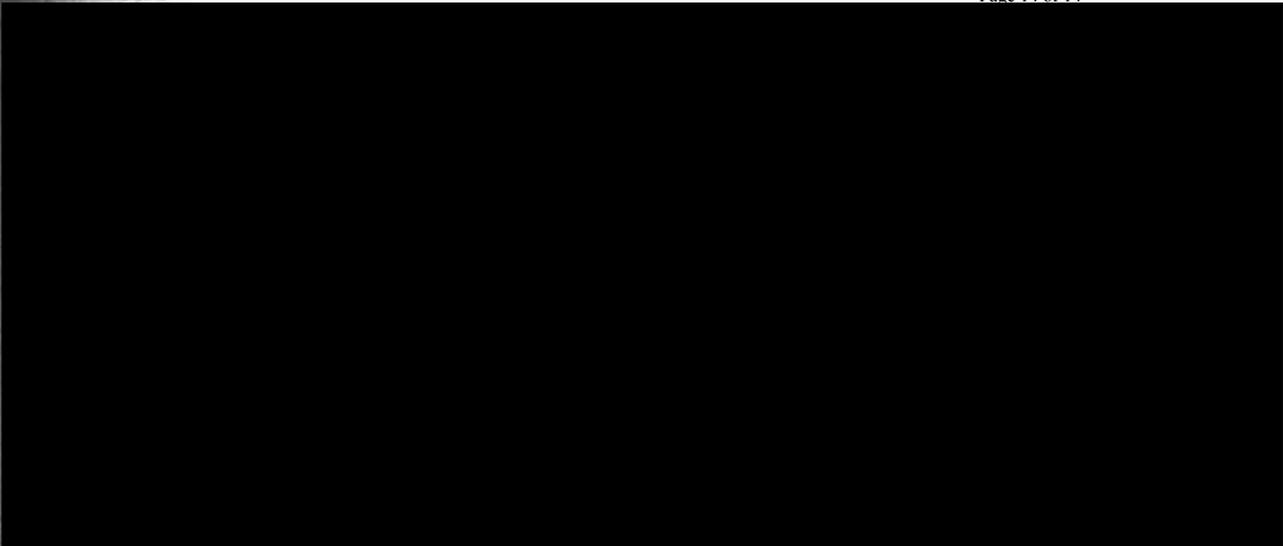
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If you have any questions or require any additional information regarding this matter, please contact Robert A.N. Cudd at (212) 424-8162 or John Damasco at (212) 424-8273.

Very truly yours,



Robert A.N. Cudd

Dated this 5th day of June, 2003.

The Narragansett Electric Company
d/b/a National Grid
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COMM 3-4

Request:

Include details of the types of projects the Company intends to select for PLR requests? Details should include without limitation the type of renewable technology, size and location of the project, whether a net-metering project will be considered and any and all other criteria the Company intends to use for selecting projects for PLR requests.

Response:

The Company plans to select projects that appear to meet all of the criteria from IRS Notice 88-129 except that they are interconnected with the distribution system, whereby less than 5% of the energy generated by the project is consumed on-site and the project has sought status as a qualifying facility (QF) under the Public Utility Regulatory Policies Act (PURPA). (Notice 88-129 was provided as Attachment C to the Company's September 12, 2014 proposal in this docket.) The Company would consider stand-alone Distributed Generation Standard Contract program projects, stand-alone net metering projects as allowed by the net metering tariff, projects that qualify only as QFs, and projects that qualify for the proposed new Renewable Energy Growth Program. These projects may use any of the technologies eligible under those programs. The ultimate selection by the Company of which projects to propose for PLRs will also depend on the status of a project's development and the cooperation of a project's proponent.

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COMM 3-5

Request:

Is there a specific reason why the Company offered to file up to four PLR requests? The question is asking specifically whether there is any significance tied to the quantity of four requests, as opposed to any other number, higher or lower.

Response:

There is no particular significance to the Company's decision to request up to four PLR requests. The Company chose that number to provide the Commission with a clear plan to clarify the tax treatment of these projects, and to provide for differences in the financial and physical nature of the projects. Depending on the content and consistency of the actual rulings, the Company believes it may be able to manage its tax risk prudently with four PLRs.

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COMM 3-6

Request:

Referring to Comm 2-9, isn't it true that if the Company intends to recover the cost of a PLR request through the Net Metering Provision, it would be required to select a net metering project for the PLR request?

Response:

The Company's suggestion of recovering the cost of the Private Letter Ruling requests through the Net Metering Provision (RIPUC No. 2099), as amended if necessary, is intended for efficiency and simplicity of capturing all costs in one existing recovery mechanism that is applicable to all retail delivery service customers, and this suggestion was not intended to present the sole means for recovering this cost. To the extent that the PUC agrees to approve these costs through the Company's Net Metering Provision, it may do so pursuant to R.I.G.L. § 39-26.4-3. That statute allows in §39-26.4-3(c) for any prudent and reasonable costs incurred by the Company pursuant to §39-26.4-3(a) to be billed to all distribution customers on an annual basis. The provisions of § 39-26.4-3(a) are for the purpose of facilitating and promoting the installation of customer-sited, grid-connected generation of renewable energy and related goals found in §39-26.4-1. Although costs specifically associated with PLRs are not referenced in §39-26.4-3(c), the Company would seek approval of such costs as both prudent and reasonable pursuant to its Net Metering Provision, as amended if necessary. The PUC has the authority to approve such costs pursuant to § 39-26.4-3(c) and § 39-1-38, which provide that the provisions of Title 39 are to be interpreted and constructed liberally in aid of its declared purpose.

Alternatively, the Company believes that it is eligible to recover the costs associated with such requests through R.I.G.L. § 39-26.6-13, which governs incremental costs associated with meeting the objectives of the Renewable Energy Growth Program (REGP). The purpose of the REGP is to continue the development of renewable-energy distributed generation in the Company's load zone at reasonable cost. See §39-26.6-2. Although costs specifically associated with PLRs are not referenced in §39-26.6-13, the Company could seek approval of such costs as reasonable pursuant to its proposed REGP Cost Recovery Provision (RIPUC No. 2153), as amended if necessary. The PUC has the authority to approve such costs pursuant to § 39-26.6-13 and § 39-1-38, which provide that the provisions of Title 39 are to be interpreted and constructed liberally in aid of its declared purpose.

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The Company prefers to collect the costs of PLR requests through one of its tariffs, rather than recovering the cost of each PLR request through the recovery mechanism associated with the nature of the DG project (Net Metering Provision (RIPUC No. 2099), Long-Term Contracting For Renewable Energy Recovery Reconciliation Provision (RIPUC No. 2125), Qualifying Facilities Power Purchase Rate tariff (RIPUC No. 2098), and the proposed Renewable Energy Growth Program Cost Recovery Provision (RIPUC No. 2153). If the latter approach was followed, it would require the Company to propose revisions to the each of these four tariff provisions.

To achieve administrative efficiency and to provide transparency to the actual cost of the PLR requests (up to a maximum of \$25,000 per request), the Company could implement a new recovery mechanism pursuant to a single tariff provision for the recovery of this cost, approved pursuant to § 39-26.4-3(c) and § 39-1-38, or § 39-26.6-13 and § 39-1-38, as appropriate. Recovery would be through a uniform per-kWh factor assessed to all of the Company's retail delivery service customers over a period of up to one year, subject to PUC approval. The factor would be included in the distribution energy charges on customers' bills, similar to other factors implemented by the Company and approved by the PUC, and recovery would be on a fully reconciling basis (i.e., the Company would recover no more or no less than the actual cost incurred, subject to the \$25,000 per request limit).

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COMM 3-7

Request:

Assuming the Company will file at least one PLR request for a project that is not a net metering project, does R.I.G.L. §39-26.4-3(c) authorize the Company to recover the cost of such PLR request(s) through the Net Metering Provision? Explain why/why not.

Response:

Please refer to the Company's response to data request COMM-3-6.

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COMM 3-8

Request:

Explain how the cost of filing a PLR request for projects *other than net metering projects* would be recovered from rate payers. Identify the specific rate recovery mechanism, including legal citation, the Company would use to recover this cost. Include in your response the legal grounds for the rate recovery.

Response:

Please see the Company's response to data request COMM-3-6.

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COMM 3-9

Request:

Explain whether R.I.G.L. §39-26.4-3(c), or any other provision of the general laws, authorizes the Company to recover from ratepayers the full extent of any future tax liability associated with an IRS rule reversal associated with DG interconnection.

Response:

Please see the Company's response to data request COMM 3-6.

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COMM 3-10

Request:

Explain whether R.I.G.L. §39-26.4-3(c), or any other provision of the general laws, authorizes the Company to recover from ratepayers a refund of reimbursement payments to WED and ACP, Land in the event of an IRS private letter ruling declaring income from these projects nontaxable.

Response:

This question is premised on an IRS ruling that the CIACs associated with specific interconnections to the Company's distribution system in a current and open tax year are tax-exempt. In that event, the Company has proposed to refund the tax gross-up amounts that the Petitioners have paid in a past tax year for projects that are not the subject of the PLR ruling as part of the settlement of the issues raised in this docket. As previously noted, the Company may only seek a PLR for income received in an open tax year, prior to the filing of the income tax return for that year by the Company.

If the refund to Petitioners is made, the Company would first seek to recover such costs through the tax audit process, as described in COMM 3-1. In the event that this were not possible, the Company is asking to recover the refunded amounts from all customers, and believes the PUC has authority to approve recovery of such a cost, along with the cost of obtaining the PLRs, as proposed in COMM 3-6.

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COMM 3-11

Request:

In the event the IRS were to reverse a previously issued private letter ruling resulting in National Grid incurring tax liability from the inception of a project or projects, explain why the Company is requiring approval of rate recovery in advance of incurring such liability. Include in your response what distinguishes this tax from other taxes incurred by the Company which are absorbed as a normal cost of doing business.

Response:

The Company's main concern is not a reversal of a previously-issued private letter ruling. Instead, the Company's main concern is the proposed application of principles from a past ruling to similar future transactions that were not considered in the specific ruling. In reviewing any transactions that are not covered by a ruling, a future IRS exam team could reach a contrary conclusion, and require the Company to pay income tax, interest, and penalties on those transactions. As part of this proposal, the Company is seeking confirmation that any future audit assessments would be deemed costs that were prudently incurred.

Potential future audit liabilities associated with distribution generation interconnections are different from other taxes imposed on the Company for two reasons. First, these tax liabilities would be caused by the contributions received from DG customers due to the interconnection activities of those customers that are potentially subject to an exemption allowed by federal tax law, but around which there is considerable uncertainty on whether such transactions are tax exempt, and any future expenses associated with such liabilities are incremental to those costs used to establish the Company's base rates. "Other taxes" referred to in the request are recovered from customers in base rates.

Second, the Company proposes to pursue the question of whether such contributions are actually tax exempt, which could reduce the overall cost of distributed generation for Rhode Island customers. The Company simply asks that it be held harmless and avoid financial risks in exploring this question and potentially implementing a new policy.

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COMM 3-12

Request:

In the event the IRS were to reverse a previously issued private letter ruling resulting in National Grid incurring additional tax liability from the inception of a project or projects, explain whether it would be appropriate for the Company to record a regulatory asset that would be recovered in the context of a future rate case.

Response:

As explained in response to data request COMM 3-11, any unavoidable tax-related costs from an adverse tax examination would need to be recovered by the Company since such costs would be incremental to costs being recovered in current base rates. This would come to pass only if the PUC decides, in response to a future proposal of the Company, that the non-collection of these tax-related costs provide significant benefits for all customers and that it would be appropriate to charge any future adverse tax assessments related to them to all customers. If that were the case, then the Company would be able to establish a regulatory asset and recover those costs from all customers in the future.

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COMM 3-13

Request:

The Company states in Comm 2-1 that it intends to file in the spring of 2015.

- a) How far into the future could the filing of four PLR requests possibly extend?
- b) What is the earliest date the Company anticipates completing these PLR requests?
- c) What is the average length of time it takes to receive an IRS ruling, from the time of filing the request to issuance of a final IRS ruling?

Response:

- a) The Company anticipates filing all four PLR requests during calendar years 2015 and 2016.
- b) The Company anticipates filing its first PLR request before the end of June 2015. It would file all four of the PLR requests by the end of 2016.
- c) It typically takes six months following the filing of the application for the IRS to issue the final ruling. Nonetheless, the actual amount of time the IRS may need to respond to the Company's requests could be longer than this amount of time and is a factor which is beyond the Company's control.

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COMM 3-14

Request:

The September 12 Proposal (page 4) states that “in the meantime” all future project developers would place in escrow an amount equal to the potential tax liability which would be refunded if the IRS determines these payments are nontaxable.

- a. Please describe both in words and mathematically how National Grid will calculate the potential tax liability that DG projects will be required to place in escrow pending receipt of the PLRs. Include the tax rate(s) that will apply to these projects and the legal citation for the tax rates.
- b. Define what is meant by “in the meantime.” Will National Grid require DG projects to place in escrow the amounts listed in subparagraph a) until the Company receives all four PLRs from the IRS?

Response:

- a. The potential tax liability arising from future CIACs will be calculated as it is done today. The Company will multiply the amount it will be required to report as gross income under Internal Revenue Code(IRC) Section 118(b) by a factor of 22.84%. This tax factor is equal to the federal corporate tax rate of 35%, as specified in IRC Section 118(b), less the present value of 20 years of depreciation deductions as allowed under the Modified Accelerated Cost Recovery System (MACRS) rules in IRC Section 168, discounted at the after-tax weighted average cost of capital of 7.17% for The Narragansett Electric Company. Please see Attachment COMM 3-14 for a detailed mathematical calculation of the 22.84% factor.

The 22.84% factor is determined solely based on potential federal tax liabilities. Utility corporations are not currently subject to a net income measure tax in Rhode Island. Instead, the state imposes public service corporation tax under R.I.G.L. § 44-13-4. The measure of this tax are the gross receipts of the utility, defined in R.I.G.L. § 44-13-1(b) “as all income of the same types as are classified as operating revenues by the public utilities control authority in the uniform systems of accounts.” IRC Sec. 118(b) is not applicable to this Rhode Island public service corporation tax. Additionally, utilities subject to public service corporation tax are excluded from a Rhode Island unitary group under the state’s new combined reporting regime. See R.I.G.L. §44-11-1(2).

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Please note that in the event Congress and the President agree to an extension of 50% bonus depreciation, and the project is in an eligible tax year, the factor applied to the transaction will be 11.42%.

- b. "In the meantime" refers to a proposed interim period of time beginning when the PUC rules on the pending proposal in this docket until the PUC rules further on what action(s) the Company should take in response to its receipt of PLR rulings from the IRS. As previously stated, the Company would seek one to four PLRs for Rhode Island-based DG projects, depending on the cases identified and consistency of rulings by the IRS. If this interim approach is authorized by the PUC, the Company would require potentially exempt DG customers to place their tax gross-up amounts in escrow until the PUC issues a final ruling on the Company's recommendation about the PLRs and the tax exemption of such customers. Holding these funds in escrow would thus reduce any amount the Company would seek to recover from all customers if the PUC ultimately decided against a policy of not collecting such gross-ups from some DG customers based on the handful of PLRs solicited by the Company. If the Company proposes, and the PUC approves in an order the exemption of such customer payments from taxation, then the Company would refund such escrowed amounts to interconnecting DG customers at that time. For tax gross-up amounts owed and paid prior to the point when the PUC rules on the pending proposal, those amounts would be treated as normal income and included in the income tax filing of the Company, unless otherwise ordered by the PUC. However, if the PUC's subsequent order on any future proposal by the Company to treat such income as tax exempt is received prior to the closure of the tax year in which it was received, then such amounts paid and eligible for the tax exempt treatment would also be refunded.

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COMM 3-15

Request:

In light of the anticipated increase in distributed generation interconnections, is there any possibility of ambiguity existing regarding the tax implications of DG interconnections even after receiving four PLRs? How confident is the Company that four PLRs will completely resolve the current ambiguity surrounding tax liability associated with DG interconnections.

Response:

There is always the possibility that ambiguity regarding the tax implications of Distributed Generation (DG) interconnections to a distribution system under Internal Revenue Code Section 118(b) will remain, even after the IRS rules on the Company's request for PLRs. Given this fact, the Company cannot guaranty that four PLRs will be enough to resolve the uncertainty. However, by seeking up to four PLRs associated with DG projects of various physical and technical configurations, each designed for interconnection to the Company's distribution system, the Company is attempting provide sufficient clarity to both the Company and the PUC regarding the taxability of contributions in aid of construction associated with these types of projects so that a new policy regarding the collection of the tax gross-up amounts might potentially be adopted. The Company believes additional PLRs beyond four would have diminishing value to establishing a pattern of practice at the IRS on this matter.

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COMM 3-16

Request:

Address Commissioner Roberti's question of whether a transfer of legal title to interconnection facilities from National Grid to the interconnecting customer would remove the Company's tax liability associated with DG interconnections. Address the feasibility of such a construct.

Response:

The Commissioner has correctly observed that National Grid realizes gross income when it receives property of value from the interconnecting customer and becomes its tax owner. Nonetheless, the proposal that National Grid transfer title of the property back to the interconnecting customer is not feasible for several reasons:

1. As a practical matter, National Grid would not transfer ownership to facilities located on the Company's side of the Point of Common Coupling to another party, given the Company's obligation to maintain the integrity of its electric power system.
2. A transfer of legal title may not be sufficient to avoid the tax liability. After the transfer, National Grid could still be regarded as the tax owner of the property (consequently, realizing gross income) if all of the facts and circumstances indicate that the benefits and burdens of ownership still reside with National Grid. This may be the case if National Grid retains control of the assets over their expected useful lives.
3. Even if consideration #2 could be overcome, a transfer would not negate the fact that National Grid had tax ownership, albeit briefly. Under tax assignment of income principles, National Grid would still realize gross income from the transaction notwithstanding the proposed transfer of title and tax ownership back to the interconnecting customer.

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COMM 3-17

Request:

Has National Grid refunded the \$47,855.18 due to WED, LLC pursuant to the final accounting report issued August 12, 2014? If not, why not? When will the Company issue this refund to WED?

Response:

No, the Company has not refunded the \$47,855.18 to WED, LLC pursuant to the final accounting report of August 12, 2014. The Company intends to apply the refund to other amounts that the customer owes the Company in accordance with a separate agreement between the Company and the customer in another matter.