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Via Hand Delivery

September 20, 2016

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

**Re: The Narragansett Electric Company d/b/a National Grid
Aquidneck Island Reliability Project
PUC Docket No. 4614**

Dear Luly:

I am enclosing for filing on behalf of The Narragansett Electric Company d/b/a National Grid five (5) copies of National Grid's Objection to and Motion to Strike Portions of Town of Middletown's Testimony of Steven M. Cabral or in the Alternative Motion for a Postponement of the Public Hearing. In the Alternative Motion, we request that Mr. Cabral's testimony be postponed until after National Grid has filed a new stormwater analysis and design with the Town of Middletown.

We are sending electronic copies to the Service List and will provide a hard copy to anyone that requests it. Please acknowledge receipt of this filing on the enclosed copy of this letter and return it with my messenger. Thank you for your cooperation.

Sincerely,



Peter V. Lacouture

Enclosures

Copy to: Cynthia Wilson-Frias, Esq. (*via hand delivery*)
PUC Docket No. 4614 Service list (*via e-mail*)

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

Issuance of Advisory Opinion to the Energy :
Facility Siting Board Regarding :
Narragansett Electric Company d/b/a :
National Grid’s Application to Construct : PUC Docket No. 4614
and Alter Certain Transmission Components :
in the Towns of Portsmouth and Middletown :
(Aquidneck Island Reliability Project) :

**OBJECTION TO AND MOTION TO STRIKE PORTIONS OF TOWN OF
MIDDLETOWN’S TESTIMONY OF STEVEN M. CABRAL OR IN THE
ALTERNATIVE MOTION FOR A POSTPONEMENT OF THE PUBLIC HEARING**

The Narragansett Electric Company d/b/a National Grid (“National Grid”), hereby objects, pursuant to Sections 1.20(g) and 1.22(a) of the Public Utilities Commission (the “Commission”) Rules and Regulations (the “Rules”), to portions of the prefiled direct testimony and surrebuttal testimony of Steven M. Cabral that were filed on behalf of the Town of Middletown (the “Town”) and respectfully requests that it be struck from the record in this matter. Specifically, National Grid seeks to strike portions of Mr. Cabral’s prefiled testimony from page 5 line 183 through page 8 line 296 and portions of Mr. Cabral’s surrebuttal testimony from page 3 line 70 through page 4 line 133 on the grounds that these portions of Mr. Cabral’s testimony are not relevant to the proceedings before the Commission (R.I. Rule of Evid. 401 and 402).

Background

National Grid submitted an application to the Rhode Island Energy Facility Siting Board (“EFSB”) for approval of proposed improvements to the transmission system in Portsmouth and Middletown. The project is called the Aquidneck Island Reliability Project (the “Project”) and it includes (i) the reconstruction and upgrade of the existing 61 and 62 Transmission Lines from 69

kV to 115 kV, (ii) building a new Jepson Substation, (iii) reconfiguring the existing Dexter Substation #37, (iv) realigning the 63 Transmission Line to connect to the new Jepson Substation, (v) temporarily relocating the 63 Transmission Line to allow for the construction of the new Jepson Substation, and (vi) relocating the M13 and/or L14 115 kV Transmission Line(s) as part of the improvements to Dexter Substation. The application was docketed by the EFSB on January 28, 2016. On May 2, 2016, the EFSB issued its Preliminary Decision and Order (Order No. 91, May 2, 2016), which designates certain local and state agencies to submit advisory opinions to the EFSB. The designated agencies include, inter alia, the Town Planning Board, the Town Zoning Board of Review, and the Commission. Presently, National Grid has local applications pending before the Town's Planning Board and Zoning Board as part of the advisory opinion process for the EFSB.

The Town hired Mr. Cabral to provide expert testimony to the Commission and to serve as a consultant to the Planning Board's Technical Review Committee ("TRC"). The TRC is charged with reviewing the National Grid application and submitting an advisory opinion to the Planning Board. The substance of the testimony in Mr. Cabral's Prefiled Testimony to the Commission is also found in his Site Plan Review Memorandum that was submitted to the Town's Planning Director, who serves as the chair of the TRC. National Grid recently engaged a new consultant to prepare the stormwater analysis and design for the proposed new substation. The new consultant's analysis and design are expected to be completed by late October. To date, National Grid representatives have met with the TRC on two occasions and will meet with the TRC again to review the new stormwater analysis after it is submitted to the TRC.¹

¹ In addition to being reviewed by the Town, the stormwater analysis and design will also be reviewed by the Rhode Island Department of Environmental Management ("RIDEM") as part of National Grid's application for a Freshwater Wetlands Permit.

Testimony That Should be Stricken

National Grid objects to portions of Mr. Cabral's prefiled testimony and surrebuttal testimony as they are not relevant to the immediate proceedings. The EFSB issued a Preliminary Decision and Order on May 2, 2016 (Order No. 91) whereby by it designated the Commission, among others, to provide the EFSB with advisory opinions on or before November 2, 2016. The Commission is instructed to "render an advisory opinion as to (i) the need for the proposed facility and (ii) whether it is cost justified." (see Page 14 of Order No. 91). The testimony provided by Mr. Cabral concerns the siting of the substation but it does not address the Project's need and cost.

Argument

Proceedings before the Commission are subject to the Commission's Rules. With respect to objections to evidence, Rule 1.20(g) states, in relevant part "[w]hen objections are made to the admission or exclusion of evidence before the Commission, the grounds relied upon shall be stated briefly." Rule 1.22(a), concerning the admissibility of evidence and the applicability of the Rules of Evidence in Commission proceedings, provides in pertinent part as follows:

In all proceedings wherein evidence is taken, irrelevant, immaterial or unduly repetitious evidence shall be excluded. While the rules of evidence as applied in civil cases in the Superior Courts of this state shall be followed to the extent practicable, the Commission shall be bound by technical evidentiary rules, evidence not otherwise admissible may be submitted, unless precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs.

Rhode Island Rule of Evidence 402 states, in relevant part, "[e]vidence which is not relevant is not admissible." Rhode Island Rule of Evidence 401 defines relevant evidence as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probably or less probable than it would be without the

evidence.” At first glance, Mr. Cabral appears to review the project need. For example, at Line 101 of the Prefiled Testimony Mr. Cabral is asked “[w]hat are your conclusions with respect to the need for the Project?” However, Mr. Cabral’s response focuses on the siting of the proposed new substation and does not address the question of Project need. In fact, at no point in Mr. Cabral’s prefiled testimony or his surrebuttal testimony does he dispute the need for the Project. Even if one assumes Mr. Cabral’s testimony is true, the testimony proffered by the Town is of no consequence to the determination of whether a new substation is necessary, whether the new transmission lines are necessary, or whether the cost of the Project is justified. For these reasons the testimony should be stricken.

The objectionable testimony proffered by Mr. Cabral covers the very same issues that are being reviewed and considered by the Town’s Planning Board and Zoning Board of Review. Thus, striking the testimony does not bar the Town from presenting these comments to the proper designated agency or to the EFSB. Thus, Mr. Cabral’s concerns are being reviewed in the proper venue before the designated agency that is tasked with rendering an advisory opinion. Further, the stormwater plan will receive further review when it is submitted to RIDEM as part of National Grid’s Freshwater Wetlands Permit.

In the alternative, if the Commission determines that the Town’s testimony is relevant to the instant proceeding, National Grid requests a postponement of Mr. Cabral’s testimony at the Commission’s public hearings scheduled for September 27-29, 2016. The additional time is necessary as National Grid’s consultant is expected to deliver the new stormwater analysis and design to the Town in late October. The National Grid team will then meet with the TRC to review the new materials. Postponing the proceedings will allow Mr. Cabral and the Town to present testimony based on the new stormwater analysis and design.

Conclusion

Even if taken as true, the testimony of Mr. Cabral is irrelevant as it is of no consequence to the Commission's advisory opinion. Thus, pursuant to the Rules Sections 1.20(g) and 1.22(a) and the Rule of Evidence Sections 401 and 402, the testimony is inadmissible. For these reasons and any other reasons that may be stated at any hearing on this motion, National Grid requests the Commission to:

1. Strike Mr. Cabral's prefiled testimony from page 5 line 183 through page 8 line 296 and surrebuttal testimony from page 3 line 70 through page 4 line 133; or
2. Alternatively, postpone the presentation of Mr. Cabral's testimony to provide National Grid time to submit the new stormwater analysis and design and to provide Mr. Cabral time to review the new information.

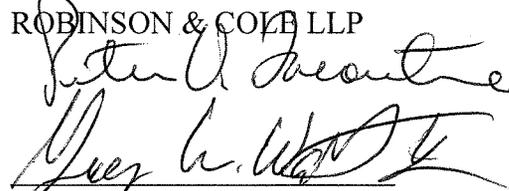
Dated: September 20, 2016

Respectfully submitted,

The Narragansett Electric Company
d/b/a National Grid

By its Attorneys,

ROBINSON & COLE LLP



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CERTIFICATE OF SERVICE

I hereby certify that a copy of National Grid's Motion to Strike was delivered to the Service List associated with the Docket via electronic mail this September 20, 2016.

Menda L. Vucci