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September 2, 2016

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

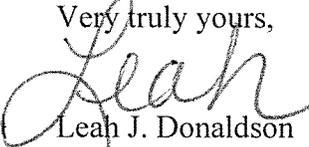
In Re: The Narragansett Electric Company d/b/a National Grid Request For Approval of a Gas Capacity Contract and Cost Recovery Pursuant to R.I. Gen. Laws § 39-31-1 to 9 (Docket No. 4627)

Dear Luly:

Enclosed for filing are an original and 9 copies of Lieutenant Governor Daniel J. McKee's Response to Conservation Law Foundation's Motion to Dismiss in this matter.

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

Very truly yours,


Leah J. Donaldson

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: THE NARRAGANSETT ELECTRIC COMPANY :
d/b/a NATIONAL GRID REQUEST FOR APPROVAL OF : DOCKET NO. 4627
A GAS CAPACITY CONTRACT AND COST RECOVERY :
PURSUANT TO R.I. GEN. LAWS § 39-31-1 TO 9 :

**RESPONSE OF LIEUTENANT GOVERNOR McKEE TO
CONSERVATION LAW FOUNDATION’S MOTION TO DISMISS
AND TO CLOSE THE DOCKET**

Intervenor Daniel J. McKee (“Lt. Gov. McKee”), acting in his capacity as Lieutenant Governor and the Chairperson of the Small Business Advocacy Council, hereby responds to Conservation Law Foundation’s (“CLF”) Motion to Dismiss the Narragansett Electric Company d/b/a National Grid’s (“Grid”) Request for Approval of a Gas Capacity Contract and Cost Recovery and Close the Docket.

Subsequent to CLF filing its Motion to Dismiss, the Federal Energy Regulatory Commission (“FERC”) issued an Order on August 31, 2016 in Docket No. RP16-618-000. In this Order, FERC rejected Algonquin Gas Transmission, LLC’s (“Algonquin”) proposal to establish a blanket exemption from bidding for capacity releases to natural gas-fired electric generators serving ISO-NE by electric distribution companies contracting for capacity under a state-regulated electric reliability program. This is a material change to the regulatory underpinnings of the Access Northeast (“ANE”) Project.

Lt. Gov. McKee agrees that, following the Massachusetts Supreme Judicial Court recent decision in *Engie*, as well as the FERC Order in RP16-618-000, Grid must either amend or withdraw and refile its proposal.¹ Any new or revised proposal should: (A) explain how Grid and Algonquin will account for the loss of Massachusetts from the regional solution, including

¹ *Engie Gas & LNG LLC v. Dept. of Public Utilities*, No. SJC-12051 and *CLF v. Dept. of Public Utilities*, No. SJC-12052 (collectively “*Engie*”).

- verification that Rhode Island will only be responsible for our proportion of any related costs;
- (B) explain the implications to ratepayers now that priority release to generators will not occur;
- (C) include a guarantee to eliminate the risk to ratepayers that exists in the current proposal; and
- (D) remove the proposed financial incentive to Grid.

Lt. Gov. McKee supports the concept of developing additional pipeline capacity for New England. Such expansion has the potential to alleviate the risk of shortfalls (and resultant price spikes) on the coldest days in winter, especially in the near term. However, Lt. Gov. McKee opposes Grid's Request for Approval of a Gas Capacity Contract and Cost Recovery ("Petition") in its current form because it imposes undue risk and costs on Rhode Island ratepayers, especially small businesses. Therefore, Lt. Gov. McKee respectfully submits that the Commission should require Grid to either amend or withdraw and refile its Petition.

A. Grid's Petition should be amended or withdrawn and refiled to account for the loss of Massachusetts from the regional pipeline solution.

Grid's Petition before the Commission makes it clear that the ANE Project is a regional solution. Prior to the recent decision in *Engie*, Grid filed a petition with the Massachusetts Department of Public Utilities ("MA DPU") seeking regulatory approval of a precedent agreement and for cost recovery from its Massachusetts ratepayers for gas capacity and storage from the ANE Project. Similar petitions are pending or expected in Connecticut, New Hampshire and Maine. Following the decision in *Engie*, however, Grid withdrew its petition before the MA DPU.

All calculations and projections provided in Grid's current Petition before the Commission include Massachusetts as an ANE Project participant. The loss of Massachusetts from the ANE Project has significant impacts on Grid's Petition before the Commission in

Rhode Island. Grid should therefore be required to amend or withdraw and refile its Petition to verify all information provided, including projections of benefits and risks to Rhode Island, now that Massachusetts is no longer part of the regional solution.

Specifically, Grid should provide an analysis explaining how the cost of Massachusetts' share of the project will now be financed. Grid should further assure the Commission that Rhode Island will only be paying our proportionate share of costs. Grid should also fully justify why Rhode Island ratepayers should assume the risks and costs associated with the ANE Project when Massachusetts ratepayers will presumably receive the benefits of increased gas capacity without the added risks and costs that Rhode Island ratepayers are being asked to assume under Grid's Petition.

B. Grid's Petition should be amended or withdrawn and refiled to address the implications of the FERC Order rejecting Algonquin's proposal for a blanket exemption

Grid witnesses Brennan and Allocca, in the current docket before the Commission, testified that if Algonquin did not obtain authorization from FERC allowing Grid to release pipeline capacity to electric generators on a preferential basis, the proposed agreements permit Grid to terminate without liability. (Joint Testimony of Brennan/Allocca at 71). Bennan and Allocca further state that the benefits of the ANE Project are not likely to be realized to the same extent as with priority release to generators first. (Joint Testimony of Bennan/Allocca at 72-73). In other words, the benefits to Rhode Island ratepayers will be smaller.

In light of this, Grid also needs to amend or withdraw and refile its proposal to address the implications of the FERC Order dated August 31, 2016. First, Grid needs to recalculate the benefits to ratepayers now that priority release to generators will not occur. Second, Grid needs to seek approval from the Commission to either terminate the Precedent Agreement with Algonquin, or seek a waiver of its right to terminate the Precedent Agreement.

C. Grid's Petition should be amended or withdrawn and refiled to eliminate risk to ratepayers.

Under Grid's current Petition, the risks of the ANE Project fall almost completely on the ratepayers. Grid provides no guarantees or commitments that the hoped for benefits to electric ratepayers will actually materialize.

Rhode Island's small business (and other) ratepayers are being asked to spend hundreds of millions of dollars on the ANE Project. However, to date, Grid has not established that there is a market for the capacity and services it is asking the ratepayers to pay for, nor has it provided any projections of the amount of revenue that will accrue to ratepayers from the release of pipeline capacity or sale of LNG services.

Ratepayers deserve a guarantee that Grid will deliver benefits to the ratepayers that exceed the costs ratepayers are being asked to pay. Grid should be required to amend or withdraw and refile its Petition to explain the guarantees it is willing to offer electric ratepayers, or to confirm that no such guarantees will be provided.

D. Grid's Petition should be amended or withdrawn and refiled to remove the proposed financial incentive.

In its 2016 Petition, Grid requests a financial incentive for this program because it claims it has developed an innovative solution to a regional problem. However, as the Commission is aware, it was the New England Governors' Commitment to Regional Cooperation on Energy Infrastructure Issues in 2013, followed by the Rhode Island state legislature enacting the Affordable Clean Energy Security Act ("ACES Act") in 2014, and not Grid, that initiated this regional solution.

In its Petition, Grid advises that its Massachusetts affiliate requested the same incentive in the MA DPU docket. Grid fails to mention, however, that Eversource – the other major utility in Massachusetts – did not ask for a similar incentive in its petition.²

In addition, Grid’s proposed incentive is based on the costs of the project, and not based on measured benefits to ratepayers. Under the current proposal, Grid would receive incentive payments even if the project falls short in delivering promised benefits to ratepayers due to poor execution.

Grid should be required to amend or withdraw and refile its Petition to remove the proposed financial incentive, or to revise the incentive to be based solely on measured guaranteed benefits to ratepayers, and not on the costs of the project.

WHEREFORE, Lieutenant Governor Daniel J. McKee respectfully submits that the Commission should require Grid to amend or withdraw and refile its petition to address the issues outlined herein.

Respectfully submitted,
Lieutenant Governor Daniel J. McKee
By his attorneys



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Date: September 2, 2016

² Eversource also withdrew its petition before the MA DPU following the *Engie* decision in August.

CERTIFICATE OF SERVICE

I hereby certify that on September 2, 2016, I sent a copy of the within to all parties set forth on the attached Service List by electronic mail, and sent copies to Luly Massaro, Commission Clerk, by electronic and U.S. mail.



Leah J. Donaldson, Esq.