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December 8, 2016

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

**Re: *The Narragansett Electric Co. d/b/a
National Grid - Docket 4627***

Dear Ms. Massaro:

Enclosed please find an original and nine (9) copies of the following:

1. Nextera Energy Resources, LLC's Concurrence With The Conservation Law Foundation's Motion To Reopen The Docket And To Reconsider Its Motion To Dismiss.

Please note that an electronic copy of this document has been sent to the service list.

Thank you for your attention to this matter.

Sincerely,



Joseph A. Keough, Jr.

JAK/kf

Enclosure

cc: Docket 4627 Service List (*via electronic mail*)

**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 A GAS CAPACITY CONTRACT : DOCKET NO. 4627
AND COST RECOVERY PURSUANT TO :
R.I. GEN. LAWS § 39-31-1 TO 9 :**

**NEXTERA ENERGY RESOURCES, LLC’S CONCURRENCE WITH THE
CONSERVATION LAW FOUNDATION’S MOTION TO REOPEN THE
DOCKET AND TO RECONSIDER ITS MOTION TO DISMISS**

On November 28, 2016, the Conservation Law Foundation (“CLF”) filed a Motion to Reopen the Docket and to Reconsider its Motion to Dismiss the Narragansett Electric Company d/b/a National Grid’s Request for Approval of a Gas Contract and Cost Recovery and Close the Docket (“Motion to Reopen”). For the reasons set forth below, NextEra Energy Resources, LLC (“NEER”) asserts that CLF’s Motion to Reopen should be granted.

In short, CLF is requesting that the Commission reopen and dismiss National Grid’s June 30, 2016 Request for Approval of a Gas Capacity Contract and Cost Recovery (“Request for Approval”) associated with a 20-year contract Precedent Agreement with the Algonquin Gas Transmission Company LLC (Algonquin) for natural gas transportation capacity and storage services on Algonquin’s Access Northeast Project (“ANE Project”).

In its Motion to Reopen, CLF presents “good cause” for reopening the proceeding.¹ CLF maintains that events in Maine, New Hampshire and Connecticut

¹ See PUC Rule of Practice and Procedure 1.26(a)(1) (“[A]t any time after the conclusion of a hearing in a proceeding, but before the issuance of the written order, any party to the proceeding may, for good cause shown, move to reopen the proceedings for the purpose of taking additional evidence.”).

demonstrate that National Grid, as a matter of law, cannot comply with the Affordable Clean Energy Security Act (“ACES”), and, therefore, the company’s Request for Approval should be dismissed.

As CLF points out, on October 6, 2016, the New Hampshire Public Utilities Commission ruled that the Access Northeast Project was not legally permissible, while, on October 25, 2016, the Connecticut Department of Energy and Environmental Protection issued a notice terminating its natural gas request for proposal stating, in part, that:

[the] . . . problem of inadequate gas infrastructure is greater than one state can solve alone. Regional investment is necessary to ensure that no one state disproportionately bears the costs of addressing what is a problem endemic to our regional electric system. . . . administrative decisions and a court ruling in other New England jurisdictions have materially reduced the ability for the costs of projects to be shared among a substantial portion of the region’s ratepayers.

Accordingly, based on the decisions in New Hampshire and Connecticut, it is without dispute that there currently is no legal path forward for the ANE Project in those states.

Further, on November 21, 2016, the Maine Public Utilities Commission (which at one time had approved the Spectra Energy Partner LLC’s Access Northeast proposals as appropriate to proceed) ruled:²

Given the events in other New England states, it is not an efficient use of the Commission’s resources to proceed with the negotiation and review of a precedent agreement with either ANE or C2C at this time. Therefore, further activity in this proceeding will be postponed pending either positive developments in the region regarding regional pipeline efforts or the termination

² *Investigation of Parameters for Exercising Authority Pursuant to the Maine Energy Cost Reduction Act, 35-A M.R.S. §1901*, Docket No. 2014-00071, Order on Petitions for Clarification and Reconsideration at 5.

of the Commission's statutory authority on December 31, 2018 to direct the execution of an ECRC.

Cumulatively, CLF, thus, correctly concludes that "both New Hampshire and Connecticut have rejected participation in National Grid's proposed Access Northeast Project . . . joining Massachusetts and, effectively, Maine."³ Hence, at this time, there is no legal path forward for ANE National Grid's Request for Approval in four New England states. Therefore, as CLF reveals, National Grid cannot comply with the legal requirements of the ACES act, including the regional participation provision of R.I. Gen. Laws § 39-31-2 (2) that states:

[utilization of] coordinated competitive processes, in collaboration with other New England states . . . instrumentalities, to advance strategic investment in energy infrastructure and energy resources . . . and ensure that the benefits and costs of such energy infrastructure investments are shared appropriately among the New England States.

Consequently, there is no foreseeable legal path forward in Rhode Island for National Grid.

Although NEER understands that the Commission originally preferred to stay this proceeding rather than grant CLF's Motion to Dismiss, it is evident that material legal events have directly affected National Grid's ability, in the conceivable future, to submit an amended Request for Approval that complies with ACES.⁴ For these

³ CLF Motion to Reopen at 2 (internal references omitted).

⁴ At the September 21, 2016 oral argument, counsel for National Grid represented:

So what we'd be hoping to do is file contracts in Massachusetts in early November, we file that net benefits analysis in Rhode Island probably mid-November, if not maybe before Thanksgiving, and we pick this up where we left it.

Tr. at 91. At that time, not only have no contracts been filed in Massachusetts, three other states have essentially joined Massachusetts as non-participants in the ANE project.

reasons, and those set forth by CLF, NEER concurs that it is appropriate to reopen the docket for purposes of reconsidering and granting CLF's Motion Dismiss.

Accordingly, CLF's Motion to Reopen should be granted.

NEXTERA ENERGY RESOURCES, LLC
By its attorney,



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CERTIFICATION

I hereby certify that on December 8, 2016, I sent a copy of the within to all parties set forth on the attached Service List by electronic mail and copies to Luly Massaro, Commission Clerk, by electronic mail and regular mail.

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