

December 11, 2020

VIA ELECTRONIC MAIL

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

**RE: Docket 4770 – Electric Earnings Sharing Mechanism
Earnings Report - Twelve Months Ended December 31, 2019
Responses to PUC Data Request – Set 5**

Dear Ms. Massaro:

Pursuant to 810-RICR-00-00-1.19(C)(3) (Rule 1.19(C)(3)), I have enclosed an electronic version of the National Grid's¹ Motion Objecting to the Public Utilities Commission's Data Request 5-9 in the above-referenced matter.²

Thank you for your attention to this transmittal. If you have any questions regarding this filing, please contact me at 401-784-7288.

Very truly yours,



Jennifer Brooks Hutchinson

Enclosure

cc: Docket 4770 Service List
John Bell, Division
Christy Hetherington, Esq.
Leo Wold, Esq.

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

² Per Commission counsel's update on October 2, 2020, concerning the COVID-19 emergency period, the Company is submitting an electronic version of this filing. The Company will provide the Commission Clerk with five (5) hard copies and, if needed, additional hard copies of the enclosures upon request.

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

IN RE: THE NARRAGANSETT ELECTRIC COMPANY :	:	
d/b/a NATIONAL GRID – ELECTRIC AND GAS :	:	DOCKET NO. 4770
DISTRIBUTION RATE FILING – :	:	
2019 EARNINGS REPORTS :	:	
_____ :	:	

**MOTION OF THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL
GRID OBJECTING TO PUBLIC UTILITIES COMMISSION’S DATA REQUEST 5-9**

By this Motion, pursuant to 810-RICR-00-00-1.19(C)(3) (Rule 1.19(C)(3)), National Grid¹ objects to Data Request 5-9 issued by the Public Utilities Commission (PUC) on December 1, 2020. In support of its Motion the Company states as follows:

1. On December 1, 2020, the PUC issued its fifth set of data requests in this docket to the Company.
2. The PUC’s Data Request 5-9 requests that the Company

...provide copies of all communications (whether electronic or on paper) that have been sent by Mr. Michael Artuso or received by Mr. Michael Artuso, relating to the Block Island Transmission Surcharge, including without limitation: preparation of earnings reports filed with the Commission, classification of the BITS assets, review of the application of the BITS surcharge formula rate, estimating any costs and/or revenues associated with the BITS assets, issues relating to perceived or actual double recovery of BITS costs in transmission or distribution rates, Mr. Artuso commenting or editing data responses to the Commission in this Docket that were sponsored by others, others commenting or editing data responses to the Commission in this Docket that were sponsored by Mr. Artuso, and/or strategizing on how to respond to the inquiries about the BITS in this Docket.

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

3. Mr. Artuso has been employed by the Company since 2008. In 2016, Mr. Artuso joined the FERC Revenue Requirement Department as a Lead Analyst and was promoted to Manager in 2019. His current responsibilities include management and review of certain calculations pertaining to the Block Island Transmission System (BITS) surcharge. Mr. Artuso may well have received or sent emails, or been copied on emails, that referred or related to the BITS surcharge throughout his tenure, but the Company is almost certain that Mr. Artuso would have, at the latest, received or sent communications, or been copied on communications, that had some relationship to BITS beginning no later than February 2016.

4. Pursuant to Rule 1.19(C)(3) the Company is provided only ten days to object to the PUC's fifth set of data requests. In this limited time-frame, the Company cannot gather and review Mr. Artuso's communications, spanning more than a decade of employment, or at the very least, the past 5 years, to determine whether they have any relationship to the issues in this docket, or whether there are responsive documents that would be protected from disclosure by the attorney-client privilege. In light of that, the Company is compelled to object to Data Request 5-9 to allow time to: (a) obtain clarification of the request from the PUC; (b) withhold or redact responsive documents that are protected by applicable privileges; (c) prepare and produce a log of privileged documents; and (d) dispute the relevance of the full volume of documents that would be responsive to this request.

5. Rule 1.19(C)(3) provides, in part, “[t]he relevancy of a request shall be determined under the standards established for such determinations under Rule 26 of the Superior Court Rules of Procedure.” While the permissible scope of discovery under Super. Ct. R. Civ. P. 26 is broad, it is not unbound. Liberal construction of the scope of discovery cannot compel production of “information which is nowise essential to a just determination of the cause.” Novogroski v. O'Brien, 106 R.I. 490, 492, 261 A.2d 283, 285 (1970).

6. The BITS surcharge is incorporated into other monthly and annual calculations and filings that are unrelated to the calculation of the Company’s 2019 earnings reports. To require review and production of every communication of Mr. Artuso relating to BITS would expand the scope of discovery in this proceeding far beyond what is required. This would result in discovery collection efforts that are unduly burdensome given the matter at issue in this docket—the Company’s 2019 earnings report.

7. Additionally, without sufficient time to collect and review the years of communications that could be responsive to this request, the Company is compelled to assert an objection to Data Request 5-9 in order to preserve any applicable privileges, including the attorney-client privilege, that are likely to apply to a number of the communications that the PUC has requested. The Company will provide a log of any documents withheld on the basis of privilege in responding to this request.

8. In an effort to expedite the production of the information the PUC has requested, to the extent that it is relevant and non-privileged, the Company respectfully requests clarification of the scope of Data Request 5-9 and suggests that it meet and confer with the PUC counsel in order to better define the scope of Data Request 5-9. Through these discussions, the Company would propose to establish temporal and subject matter limitations with respect to Data Request 5-9 so that: (a) the Company does not undertake an overly broad and unduly burdensome document collection and review effort; and (b) the PUC is not inundated with irrelevant material simply because it contains some reference to BITS.

In light of the foregoing, the Company objects to Data Request 5-9 issued by the PUC and requests that it be excused from responding pending a determination of the issues set forth herein.

THE NARRAGANSETT ELECTRIC COMPANY
d/b/a NATIONAL GRID

By its attorney,



Jennifer Brooks Hutchinson (#6176)
National Grid
280 Melrose Street
Providence, RI 02907
(401) 784-7288

Dated: December 11, 2020

Certificate of Service

I hereby certify that a copy of the cover letter and any materials accompanying this certificate was electronically transmitted to the individuals listed below.

The paper copies of this filing are being hand delivered to the Rhode Island Public Utilities Commission and to the Rhode Island Division of Public Utilities and Carriers.



Joanne M. Scanlon

December 11, 2020
Date

**National Grid Docket No. 4770 (Rate Application) & Docket No. 4780 (PST)
Combined Service list updated 12/2/2020**

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