

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

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| IN RE: REVIEW OF THE NARRAGANSETT) | |
| ELECTRIC CO. D/B/A NATIONAL GRID) | |
| PROPOSED POWER SECTOR) | Docket 4780 |
| TRANSFORMATION VISION AND) | |
| IMPLEMENTATION PLAN) | |

MOTION FOR RECONSIDERATION
BY
NEW ENERGY RHODE ISLAND

By its attorneys, New Energy Rhode Island (NERI) - a coalition made up of the Partnership for Rhode Island Streetlight Management, the Washington County Regional Planning Council, Green Energy Development, Heartwood Group, Inc., Newport Solar, Clean Economy Development, LLC, ISM Solar Development, LLC and the Rhode Island League of Cities and Towns - respectfully moves the Commission for expedited reconsideration of its decision to preclude NERI from participating in technical sessions scheduled by the Commission in this Docket pending resolution of National Grid's objection to its motion to intervene in this Docket. In the alternative, NERI asks the Commission to stay any further proceedings in this Docket pending resolution of NERI's motion to intervene.

The procedural schedule for this Docket indicates that motions to intervene were due no later than January 29, 2018. NERI filed its motion to intervene on January 22, 2018, seven days before the deadline. NERI conferred with all then-existing parties to this Docket before filing its motion, pursuant to rule 1.15(b) (see email attached as Exhibit A), and had not received notice of any objection before filing, as stated in its motion. In fact, NERI received no notice of National Grid's objection to our intervention until NERI appeared at the first scheduled technical session scheduled in

this Docket, on January 26, 2018, and its counsel attempted to question regarding the presentation.¹ At 5:10 p.m. on January 25, NERI received an email from Commission counsel indicating that the motions to intervene filed by NERI and one other coalition party had not been assented to (and questioning whether the United States Navy had received assent to its motion²) and indicating that parties that had not received assent to their intervention would be not be allowed to actively engage in discussion “at the table” in the technical session, but would only be allowed to present public comment.

When NERI’s counsel arrived at the tech session on January 26, it had received no notice of any objection to its motion. National Grid then interrupted NERI’s questioning, based on its intent to object, without communicating any substantive grounds for its objection to NERI’s intervention. In response to that interruption, the Chair ruled that NERI could not actively participate in the tech session or question given the unresolved status of its motion. NERI was not allowed the courtesy of an opportunity to respond to the substance of National Grid’s objection before it was obstructed from questioning at the tech session. The Commission’s decision to preclude participation in scheduled proceedings before timely and properly filed motions to intervene (that have not received any notice of objection) are decided is prejudicial.

As of January 26, 2018, the date of that first technical session, NERI’s status was no different than that of any other entity seeking intervention - our party status had yet to be granted by the Commission. National Grid’s opposition on intervention does not determine a pending intervenor’s status. Even with National Grid’s assent, an intervenor could still get an objection from another party

¹ In case it is of interest or concern, that specific question would have been two parted: 1) there has been discussion of the possibility that some of the proposed grid modernization initiatives may overlap with actions in neighboring jurisdictions, do any overlap with other initiatives within this state (e.g., does the evolution of our 5G cellular network provide capacity for advanced metering infrastructure not accounted for in your proposal)?; and 2) docket 4600 and the power sector transformation proceeding addressed whether some functions traditionally assigned to a monopoly utility might be better served by competitive markets – do any of these PST proposals fit in such a category?

² The Navy’s motion to intervene did not include any statement about consultation with other parties under Rule 1.13(e).

or, even with the consent of all parties, could still be denied intervention by the Commission (unless granted intervention by right).³ The Commission had not ruled on any of the pending motions for intervention yet, so to deny some parties the right to participate in questioning at a tech session while allowing others was and will be prejudicial. The Chair's concern that allowing participation by a pending intervenor opens the door to participation by any member of the public equates the status of those seeking to intervene with those that have not.

The Commission's decision to refuse NERI's active participation in the tech session before having considered the substance of National Grid's objections was especially harmful given NERI's well known history in proceedings related to power sector transformation. A NERI member, Green Energy Development (d/b/a Wind Energy Development), was a principal party in the opposition to National Grid's access fee for distributed generation in Docket 4568, presenting expert testimony from Karl Rábago, Executive Director of the Pace Energy and Climate Center, on the deficient justification for that proposal and proper valuation of the impact of distributed energy resources. The Order in that Docket, stated:

The PUC's next impetus to redesign the rates likely will be in the next full rate case filed by National Grid. A rate case is a complicated, resource intensive proceeding, and would be further complicated by hearing entirely new arguments on rate design as required by the statute. Stakeholders would likely benefit from continuing in a process that addresses issues presented by the changing distribution system, outside of a future rate case, The Company, in its unopposed motion, stated support for further discussion of the issues raised in this docket. Weighing options to support a continued discussion on these issues, to inform expectations in a future rate case, the PUC voted to open a new docket to investigate the changing distribution system and corresponding appropriate rate design options.

Commission Order 22465 (July 6, 2016), p. 3. When Docket 4568 give rise to that Docket 4600 (implementing best value procurement across energy decision-making), NERI made the investment to be a fully engaged participant, with Mr. Rabago providing regular input. The Commission's

³ Many pending motions to intervene for those allowed a seat at the table had been filed after NERI filed its motion, did not contain section 1.13(e) consultation certifications as was presented in NERI's motion, and had not cleared the ten day period for party objections.

guidance on Docket 4600 states, “[t]o guide its review of future cases that affect National Grid electric rates, the PUC adopted goals, updated rate design principles, and a new Rhode Island Benefit-Cost Framework, recognizing that further work needs to be done on the Framework.”

Dockets 4770 and 4780 are NERI’s opportunity to ensure proper implementation of the work it has done in Docket 4600. NERI’s counsel also actively participated in the power sector transformation process, submitting approximately sixty pages of written comments in response to questions and drafts from the agencies overseeing that process.⁴ The Phase I report from that Power Sector

Transformation process states:

During the coming year, the recommendations of this report will begin the evolution of the power sector through a variety of regulatory vehicles. In particular, National Grid’s distribution rate case filing expected in December 2017 represents a strategic opportunity to modernize the utility business model, deploy advanced meters, enhance distribution system planning, and pursue beneficial electrification. Other regulatory dockets that will be used to implement the recommendations may include, but are not limited to, the Infrastructure Safety and Reliability (ISR) Plan, the System Reliability Procurement (SRP) Plan, and Energy Efficiency Plans. The implementation vehicles will be determined in collaboration with National Grid, stakeholders, and regulators. The precise implementation pathway will depend on future decisions that National Grid, the Commission and stakeholders will each make. There are many available tools for the state’s policymakers and regulators to pursue change.

This is NERI’s opportunity to ensure proper implementation of the work it did in the Power Sector Transformation process.

It may be clear why National Grid prefers to exclude NERI from participation in its rate case and on its power sector transformation filing, given NERI’s past advocacy. However, its basis for any such preclusion is highly dubious. Therefore, if the Commission is unwilling to reconsider its decision to preclude NERI from full and active participation in any proceedings scheduled before the resolution of its motion to intervene in this Docket, NERI respectfully asks the Commission to stay

⁴ NERI members did not fund participation in the power sector transformation process but NERI counsel participated on their behalf pro bono, given its transformative potential.

any such proceedings pending resolution of NERI's motion to intervene. NERI requests expedited consideration of this motion given all of its urgency.

Respectfully submitted,

NEW ENERGY RHODE ISLAND

By their attorneys,



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CERTIFICATE OF SERVICE

I hereby certify that on January 29, 2018, I sent a true copy of the document by electronic mail to the PUC and the service list and filed the original pleading and 9 photocopies with the PUC.



Seth H. Handy



Exhibit A
Consultation Regarding Objections

From: **Harrer, Kelsey A CIV NAVFAC LANT, 09** kelsey.a.harrer@navy.mil
Subject: **RE: [Non-DoD Source] Intervention in 4770 and 4780**
Date: **January 22, 2018 at 3:39 PM**
To: **Handy Seth** seth@handylawllc.com

Mr. Handy,

The Department of the Navy does not object to the intervention of New Energy RI in the above-referenced proceedings.

Very respectfully,

Kelsey A. Harrer
Assistant Counsel
NAVFAC LANT, Code 09C7
6506 Hampton Blvd. Bldg. A
Norfolk, VA 23508-1278
Phone: (757) 322-4119 DSN: 262-4119
Fax: (757) 322-8181

-----Original Message-----

From: Handy Seth [mailto:seth@handylawllc.com]
Sent: Monday, January 22, 2018 1:40 PM
To: O'Brien, Celia; Hutchinson, Jennifer; Scanlon, Joanne M.; aramos@hinckleyallen.com; Lwold@riag.ri.gov; Jmunoz@riag.ri.gov; WilliamDunkel@consultant.com; Andrew.Marcaccio@doa.ri.gov; Elmer Jerry; mgreene@clf.org; Harrer, Kelsey A CIV NAVFAC LANT, 09
Cc: Helen Anthony; Randelle L Boots
Subject: [Non-DoD Source] Intervention in 4770 and 4780

Good afternoon:

New Energy RI intends to intervene in Dockets 4770 and 4780 and attaches its draft motions. While these motions may still be subject to revisions before filing, please let me know if you intend to object to either motion to intervene under Rule 1.13(e).

Thank you.

Seth

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