STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

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

NEW ENERGY RHODE ISLAND'S
MOTION FOR LEAVE TO FILE REPLY

Pursuant to Rule 1.15 of the Rhode Island Public Utilities Commission's Rules of Practice and Procedure, the Rhode Island League of Cities and Towns, 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, and ISM Solar Development, LLC (collectively referred to as New Energy Rhode Island or NERI) respectfully submit this Motion for Leave to File a Reply to National Grid's objection on our intervention in this docket.

NERI acknowledges that the Rules of Procedure do not provide a right to reply. However, NERI followed rule 1.13(c) that "[a] motion to intervene shall set out clearly and concisely facts from which the nature of the movant's alleged right or interest can be determined, the grounds of the proposed intervention, and the position of the movant in the proceeding." While NERI met the standard for a clear and concise motion to intervene, National Grid's objection indicates that it requires elaboration for more explanation. NERI never expected this effort to preclude our members from participation in a distribution service rate case and, therefore, now its members request an opportunity to refute the basis for that rare form of objection on paper.

rate case and, therefore, now its members request an opportunity to refute the basis for that rare form of objection on paper.

NERI respectfully asks the Commission to grant leave to file its reply and accept the attached reply into the record of this proceeding for decision.

Respectfully submitted,

NEW ENERGY RHODE ISLAND

By their attorneys,

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CERTIFICATE OF SERVICE

I hereby certify that on February 7, 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

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
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NEW ENERGY RHODE ISLAND'S
REPLY TO OBJECTION TO INTERVENTION

The Rhode Island League of Cities and Towns, Partnership for Rhode Island Streetlight Management, the Washington County Regional Planning Council, Green Energy Development, Heartwood Group, Inc., Newport Solar, Clean Economy Development, LLC, and ISM Solar Development, LLC (collectively referred to as New Energy Rhode Island or NERI) submit this reply to National Grid's objection on our intervention in this docket.

The Commission's Rule 1.13(c) requires that "[a] motion to intervene shall set out clearly and concisely facts from which the nature of the movant's alleged right or interest can be determined, the grounds of the proposed intervention, and the position of the movant in the proceeding." While NERI met the standard for a clear and concise motion to intervene, National Grid seeks to obstruct intervention by expansive argument on why that clear and concise statement was inadequate. The Commission is well aware of NERI's right to intervener status as is well established in its pleading and backed up by a long history of distinct advocacy for the public interest.

First, to be clear, NERI's coalition is just the kind of collaboration that the Commission has repeatedly encouraged. It enables multiple entities to share the costs of participating in otherwise cost prohibitive proceedings while granting the Commission the benefit of consolidating aligned

advocacy and reducing repetition of positions that (while clearly distinct from the interests and advocacy of other parties to these proceedings) are well suited for common advocacy among its members. There is no requirement that an intervener consisting of member organizations (*i.e.*, not natural persons) must be registered with Rhode Island's Secretary of State. There can be no question that NERI's members are entities eligible for intervention at the Commission – there is a long and well-understood history of such entities being considered "people" at the Commission. The name of this coalition, New Energy Rhode Island, is of no consequence other than allowing for coordinated advocacy, ease of reference and shared cost of participation. If the Commission were to disallow participation by such coalitions, it would severely inhibit the affordability and efficiency of these kinds of proceedings. Moreover, a denial of this intervention would cause an irreversible harm of leaving NERI members unable to fully engage in this critically important and transformative docket.[1]

NERI and all of its members have standing. Our members could all participate in this proceeding in their own right, together they seek to protect an interest germane to a shared purpose, and NERI's advocacy does not require the direct participation of our individual members. NERI's motion concisely established the bases for its intervention in this proceeding - demonstrating an affected interest not adequately represented by existing parties and showing that its intervention will serve the public interest. NERI's members all work (albeit in different ways) toward bringing enhanced value to customers, the distribution system and our society and have an interest in ensuring that all energy proposals and decision-making facilitate their work by properly assessing the value propositions established in docket 4600 and the power sector transformation process. Whether it is saving municipalities many millions of dollars through streetlight conversion and management,

[1] It should be noted that National Grid demonstrated its concern for the League of Cities and Town's perception of its filings in Docket 4770 and 4780 by asking the League to a meeting held at Pawtucket City Hall on Monday January 29 dedicated to presentation of the rate case proposal and discussion of concerns raised by the League and its members. The League graciously attended that meeting, hearing out National Grid's representatives, and now deems it entirely unseemly that National Grid would seek to preclude its participation in this docket.

saving municipalities and commercial entities many millions of dollars through distributed generation projects or saving residential customers from unsustainable energy budgets through solar conversions – all of NERI's members have invested very significant resources in facilitating a new energy economy that provides great value. All of their work and the future of their capacity to enhance value is directly at stake in the proposals presented in this docket. The specific examples of impact abound and are self evident, whether it is addressing power sector transformation as a cost adder rather than its opportunity to leverage value, improper implementation of the docket 4600 criteria for time based rates, absence of time-based incentives for implementation of distributed energy resources, the need to track cost of advanced metering functionality against resulting savings, allowing market competition for proposed storage and solar projects, concerns with the scope and implementation of proposed performance based incentives, or the absence of a "business enhancement" program for distributed energy resources. These examples of direct and significant impact only scratch the surface and are sufficiently evident to not require such elucidation in a clear and concise motion to intervene specified by the Rules. NERI is focused on proper implementation of the goals from docket 4600, including especially "prioritizing and facilitating increasing customer investment in their facilities (efficiency, distributed generation, storage, responsive demand, and the electrification of vehicles and heating) where that investment provides recognizable net benefits" and "aligning distribution utility, customer, and policy objectives and interests through the regulatory framework, including rate design, cost recovery, and incentives." The Commission knows very well that National Grid's claim that NERI's participation will merely duplicate the advocacy of other parties and will not benefit the public interest is unfounded protectionism that will harm the public interest.

Despite National Grid's cited authority,[2] Rhode Island case law makes it clear that standing to intervene in a Commission proceeding is subject to a lower standard than intervention in a court appeal. The Rhode Island Supreme Court has held that "[t]he right of a party to intervene and to present evidence to the commission is quite different from standing to obtain judicial review. One who seeks review has the burden of setting the judicial machinery in motion by establishing that he is aggrieved and has a right to redress whereas one who intervenes before the commission is not setting machinery in motion but is trying to influence the course of action that is already in progress." Blackstone Valley Chamber of Commerce v. Pub. Utilities Comm'n, 452 A.2d 931, 934 (R.I. 1982) (citing 3 Davis, *Administrative Law Treatise* § 22.08 (1958)). The preeminent treatise on administrative practice quotes the Administrative Procedure Act's statement that, "So far as the orderly conduct of the public business permits, an interested person may appear before an agency or its responsible employees for the presentation, adjustment, or determination of an issue, request, or controversy in a proceeding, whether interlocutory, summary, or otherwise, or in connection with an agency function" commenting that "[w]hile this provision may not grant intervention as a matter of right, and may permit alternative procedures, the trend has been toward liberal granting of intervention and other public participation." Administrative Law Practice and Procedure §4:12, "Opportunity for Participation and Hearing." NERI's members submit that the standard for intervention in this power sector transformation proceeding should be especially lenient given the great breadth and complexities of its scope of interest and all the significance of its wide-ranging impact.

Contrary to National Grid's assertion, the participation letters filed with NERI's motion clearly indicate the specific nature of NERI participants' interests in this docket. They include

[2] Schlesinger v. Reservists Comm. to Stop the War, 418 U.S. 208, 225 (1974); Charleston v. United States, 696 F. Supp. 800, 813 (D.R.I. 1988); Valley Forge Christian College v. Americans United For Separation of Church and States, Inc., 454 U.S. 464 (1982) (all reciting the elements of standing for court cases).

specific descriptions of interest like, for example: 1) "Green provides commercial and utility scale renewable energy solutions focused on building sustainable communities throughout Rhode Island. The company currently has more than 30 employees and 25MW of operational wind and solar with significant additional turbines, solar and biomass plans under development statewide." 2) "We are a Rhode Island solar installation business with fourteen employees in RI." 3) "We are two related RI nonprofit corporations working in the energy sector with two employees and ten sub-contractors in RI." 6) "We are a nonprofit membership organization that provides services and support to all thirty-nine municipalities in the state." NERI's motion clearly and concisely presented the nature and extent of its members' interests in this power sector transformation proceeding.

If those statements of interest were not adequate, they were sufficiently supplemented by the clear and concise statement of interests in NERI's motion and the Commission's record notice of the extent of each of the NERI's participant's interest in the future of Rhode Island's energy system. The specific extent of those interests have been demonstrated clearly in the record of Commission proceedings, whether on prior proposals for rate reform (e.g., docket 4568, 4600), streetlight reform (dockets 4442, 4513, 4685), system improvements and interconnection (dockets 4483, 4539, 4763), or programs for distributed generation (dockets 4536, 4547, 4549, 4774). It is not necessary for NERI's concise motion to have rehashed all of this history of specific interests that are part of the Commission's record and well known to the Commission. All of these demonstrated interests are implicated in and will be deeply impacted by National Grid's proposal to implement power sector transformation.

One 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), almost every one of NERI's members for this docket participated, through NERI, making a shared investment to be a fully engaged participant, with Mr. Rábago providing regular expert input.[3] The members' advocacy in docket 4600 demonstrates a common interest in pursuing greater value in energy decisions and inputs through greater definition, analysis and implementation of long-term net benefit procurement. NERI's motion to intervene indicates a shared interest in pursuing the principles and strategies outlined in 4600 in this docket, and outlines specific positions that are consistent with the interests NERI members vigorously pursued in docket 4600. The Commission's 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 did in docket 4600.

[3] Contrary to National Grid's assertion, the League of Cities and Towns did participate in docket 4600 through the NERI coalition. The only participants in this proceeding that did not participate with NERI in docket 4600 are PRISM and the Washington County Regional Planning Counsel, and they have specific interest in streetlight management that drive their participation in NERI for this docket.

NERI's counsel and members also actively participated in the power sector transformation process, submitting over 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.

As indicated in our motion, this is NERI's opportunity to ensure proper implementation of the extensive work its members and representatives have done individually and collectively in these past proceedings.

As set out concisely in its motion, NERI's interests were not represented by then-existing parties (of which there were few – CLF, OER, Division, Navy, National Grid), nor are they represented by those that subsequently sought intervention. Our members have demonstrated the specific and distinct nature of their interests in this proceeding through all of their past advocacy at the Commission. It is self evident that no other party can adequately represent the League of Cities and Towns membership interests and perspectives on power sector transformation. No party has the depth of experience with municipal streetlight systems brought by the Partnership for RI Streetlight Management or is better prepared to advocate on (as just one specific example) how grid modernization proposals might relate to and be impacted by existing infrastructure on streetlight

[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.

poles. No party has Green Development's history of direct advocacy on system improvement and interconnection issues that are so significantly impacted by the proposed performance based incentives and distribution system planning elements of National Grid's power sector transformation proposal. No party has the depth of the Heartwood Group's experience of developing over six megawatts of distributed generation serving affordable housing or Clean Economy Development's experience of helping to procure distributed energy resources for public entities. These are only some of many examples of how NERI's members have distinctive interests that are not adequately represented by other parties to this proceeding.

This case is absolutely and clearly distinct from the treatment of the Harsch Group in docket 3739 that is cited by National Grid in support of its position. The Harsch Group did not actually move to intervene, it petitioned the Commission to reduce rates while a parallel rate case was proceeding. Order 18794 at p. 16. The Harsch Group was found to consist of "typical NGrid residential ratepayers" that were deemed adequately represented by the Division. In its Order, the Commission ruled that the standard for a distinct and unrepresented interest is met where there are a group of ratepayers with a distinct economic interest that differs from ratepayers in general. NERI's members have clearly, consistently and comprehensively demonstrated their special and distinct economic interest in proper valuation of energy inputs, which distinguishes them from the ratepayers the Harsch Group sought to represent and any other parties participating in this proceeding.

The Commission also held that the Harsch Group did not meet the public interest criterion because it "provided no specifics of its reform agenda except that it opposes the Division's price stability philosophy." In contrast, NERI's history and its motion illustrates a clear reform agenda – its members seek out better value for customers, for the distribution system and for Rhode Island through the implementation of power sector transformation.

Commission precedent establishes that distinctive expert testimony alone can serve to meet the public interest criterion for intervention. In In Re: Review of Amended Power Purchase Agreement Between Narragansett Elec. Co. d/b/a Nat'l Grid & Deepwater Wind Block Island, LLC Pursuant to R.I. Gen. Laws S 39-26.1-7, 284 P.U.R.4th 1 (Aug. 16, 2010), the Commission held that a group of ratepayers whose communities would be uniquely impacted by the Deepwater's proposed project were entitled to intervention because they planned to proffer novel expert testimony from an economist that could uniquely serve the public interest. Similarly here, as concisely set out in its motion, NERI has demonstrated that the participation of its experts, Karl Rábago and the Pace Energy and Climate Center, will serve the public interest in this proceeding. If that is not clear from Mr. Rábago's record participation in dockets 4563 and 4600, it has firmly been established in NERI's public comments filed on the tech sessions from which NERI was precluded based on this pending objection. Mr. Rábago's testimony in National Grid's New York rate case (dockets 17-E-0238 and 17-G-0239, initiated by National Grid's subsidiary Niagara Mohawk) involved many issues implicated in National Grid's Rhode Island filing and put him in a unique position to address the concerns of NERI's members. NERI's experts have distinct experience on these matters and its input will improve the Commission's ability to ensure that the proceeding results in an order and actions that best serve the public interest.

Finally, NERI takes great exception to National Grid's position that our member's participation in docket 4600 is irrelevant to this proceeding and that our intent to invoke the principles of docket 4600 and the power sector transformation process in the rate case is somehow inappropriate and should be prescribed. The notion that docket 4600 was merely a stakeholder process with no relevance to the Commission's adjudication of this proposal directly contradicts the Commission's guidance issued in response to the uniform resolutions from docket 4600 (in which

National Grid was a consenting participant). National Grid's claim that it is inappropriate to make alternative proposals in response to its filings is also an attempt to directly repudiate the docket 4600 guidance and the results of the power sector transformation process, which clearly call us to point out the inadequacies of such a filing according to principles established by the Commission and even elicit alternative proposals that better support the resolutions from those proceedings. At bottom, the sustained pursuit of least cost procurement requires a transition from a cost plus motivation (a.k.a, "business enhancement") to cost reduction through value enhancement – and while it may not be possible to make a wholesale shift in one rate case, NERI is fully committed to advocate on any existing proposals and any feasible alternatives that will help perpetuate better value for its constituents, customers, our distribution system and all of Rhode Island. It is a shame that our utility seeks to inhibit the application of such a great history of advocacy and reform by precluding one group of its proponents from intervener status in these proceedings on implementation. The Company's objection to NERI's intervention demonstrates, perhaps more plainly than ever before, the depth of National Grid's interest in continuing its costly business as usual.

Respectfully submitted,

NEW ENERGY RHODE ISLAND

By their attorneys,

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