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February 6, 2020

Ms. Luly Massaro, Clerk
Rhode Island Division of
Public Utilities and Carriers
89 Jefferson Boulevard
Warwick, RI 02888

RE: The Narragansett Electric Company d/b/a/ National Grid Review of Proposed Power Purchase Agreements Pursuant to RIGL §39-26.1

Dear Ms. Massaro:

Enclosed herewith please find an original and 9 copies of the following documents:

1. Gravel Pit Solar II, LLC's Motion to Intervene;
2. Gravel Pit Solar II, LLC's Motion for Protective Treatment of Confidential Information.

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

Thank you for your attention to this matter.

Sincerely,



Joseph A. Keough, Jr.

JAK/kf
Enclosures
cc: 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 REVIEW : **DOCKET No. 5011**
OF PROPOSED POWER PURCHASE :
AGREEMENTS PURSUANT TO RIGL §39-26.1 :

GRAVEL PIT SOLAR II, LLC’S MOTION TO INTERVENE

NOW COMES Gravel Pit Solar II, LLC, and pursuant to Rule 1.13 of the Rules of Practice and Procedure for the Rhode Island Public Utilities Commission (“Commission”), moves that the Commission grant it the right to intervene as a party in the above-captioned docket for the reasons set forth herein:

1. Narragansett Electric Company d/b/a National Grid (“National Grid”) is authorized under RIGL §39-26.1-1, et. seq., (the “Long-Term Contracting Standard For Renewable Energy”) to enter into long term contracts for the purchase of energy, capacity and renewable energy certificates from renewable generators meeting the requirements of the Long-Term Contracting Standard For Renewable Energy.
2. Gravel Pit Solar II, LLC (“Gravel Pit”) is a Delaware limited liability company that is developing a 50 MW solar electric generation facility (“Facility”), which qualifies as a Newly Developed Renewable Energy Resource as defined by RIGL §39-26.1-2(6).
3. On February 4, 2020, National Grid submitted a Power Purchase Agreement with Gravel Pit for review and approval by the Commission pursuant to the Long-Term Contracting Standard For Renewable Energy.
4. Gravel Pit has a significant interest that may be directly affected by the Commission’s review and decision in this matter.

5. This interest is not adequately represented or protected by the existing parties in this docket, and Gravel Pit may be bound by the Commission's action in this docket.

6. In addition, it is in the public interest that both parties to the proposed Power Purchase Agreement – National Grid and Gravel Pit – participate in this proceeding to answer any and all questions raised by the Commission or any other parties in this docket.

WHEREFORE, Gravel Pit Solar II, LLC requests that the Rhode Island Public Utilities Commission grant its Motion to Intervene and that it be granted status as a party in this proceeding.

Gravel Pit Solar II, LLC
By its attorney,



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Dated: February 6, 2020

CERTIFICATION

I hereby certify that on February 6, 2020, 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.

Name/Address	E-mail Distribution	Phone
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2. Appendix A and A-1, which identify the specific location of the solar electric generation facility.

Gravel Pit requests a delay in the release of this specific and limited information to assure the successful development of the project.

III. LEGAL STANDARD

Commission Rule 1.3.H provides that access to a public record shall be granted in accordance with the Access to Public Records Act (“APRA”), R.I. Gen. Laws §§ 38-2-1, et seq. Under the APRA, all documents and materials submitted in connection with the transaction of official business by an agency are deemed to be a “public record,” unless the information set forth in the documents and materials falls within one of the enumerated exceptions identified in R.I. Gen. Laws § 38-2-2(4). As such, the Commission has the authority under the APRA to protect such information from public disclosure and deem it confidential provided that it falls within one of the specific exceptions to the APRA. A review of R.I. Gen. Law § 38-2-2(4)(B) and (N) indicate that the following records are not deemed to be public:

“(B) Trade secrets and commercial or financial information obtained from a person, firm, or corporation that is of a privileged or confidential nature.”

(N) The contents of real estate appraisals, engineering, or feasibility estimates and evaluations made for or by an agency relative to the acquisition of property or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all proceedings or transactions have been terminated or abandoned; provided the law of eminent domain shall not be affected by this provision.”

In addition, the Rhode Island Open Meetings Act, R.I. Gen. Law § 42-46-5 (a)(5) allows for discussion in closed session of:

“Any discussions or considerations related to the acquisition or lease of real property for public purposes, or of the disposition of publicly held property wherein advanced public information would be detrimental to the interest of the public.”

The Rhode Island Supreme Court interpreted the APRA to define as confidential “any financial or commercial information whose disclosure would likely ... cause substantial harm to the competitive position of the person from whom the information was obtained.” *Providence Journal Company v. Convention Center Authority*, 774 A.2d 40 (R.I. 2001). In making this determination, the Supreme Court set forth a two-prong test. The first prong assesses whether the information was provided voluntarily to a governmental agency. *Id.* at 47. If the answer to this first question is in the affirmative, then the next question becomes whether the information “is of a kind that would customarily not be released to the public by the person from whom it was obtained.” *Id.*

Furthermore, the Supreme Court has held that agencies making determinations as to the disclosure of information under the APRA may apply the balancing test established in *Providence Journal v. Cane*, 577 A.2d 661, (RI 1990). Under this test, the Commission may protect information from public disclosure if the benefit of such protection outweighs the public interest inherent in disclosure.

IV. BASIS FOR CONFIDENTIALITY

Gravel Pit seeks to delay the disclosure of two discreet and limited categories of information in the PPA for a limited time.

A. Milestone Dates

Gravel Pit seeks to delay the disclosure of three interim milestone dates identified in Section 3.1 and Exhibit B until they are achieved. This delay has no effect on the disclosure of the PPA terms themselves. Gravel Pit does not seek to delay disclosure of the fact that it has to meet certain interim milestones, nor the interim milestones themselves. The only delay sought is for the actual deadline for achieving each interim milestone. This information is commercially

sensitive and competitively significant. Delaying the release of the interim milestone dates will help to ensure the viability of this project and the timely satisfaction of the milestones. If Gravel Pit's competitors, other stakeholders, or opponents, have this information, they could seek to delay the permitting process with an aim toward scuttling the project. Gravel Pit also notes that it is not seeking to limit the disclosure of the Commercial Operations Date milestone, and that the public's interest in knowing the specific interim milestone dates is outweighed by Gravel Pit's need to achieve the interim milestones without undue cost or delay. Gravel Pit believes the Commission will find that this project meets the purposes of the Long-Term Contracting Standard for Renewable Energy. Thus, helping to assure the project comes to fruition is in the public interest.

B. Specific, Granular Geographic Location

While the general location of the project in East Windsor, Connecticut is known and disclosed, Gravel Pit seeks to delay disclosure of the more specific and granular location information set forth in Appendix A and A-1. Gravel Pit seeks this delay until it files its siting board application, which is anticipated to be in the second half of 2020. Delaying the disclosure of this information for a limited time will allow Gravel Pit to competitively complete the real estate acquisition program for the project. The redacted details are at this time commercially sensitive and competitively significant. Premature disclosure of this specific information will make this task much more difficult and potentially more costly. Non-disclosure will also afford Gravel Pit adequate time to engage with the host community, stakeholders, abutters and regulators with respect to the project and its site plan prior to formally filing it with the Siting Board. Again, Gravel Pit believes the Commission will find that this project meets the purposes

of the Long-Term Contracting Standard for Renewable Energy. Thus, helping to assure that the project comes to fruition is in the public interest.

V. CONCLUSION

For the reasons set forth herein, Gravel Pit Solar II, LLC hereby respectfully requests that the Commission grant the relief sought herein and temporarily delay disclosure of the information identified herein.

GRAVEL PIT SOLAR II, LLC
By its attorney,



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