STATE OF RHODE ISLAND

DIVISION OF PUBLIC UTILITIES & CARRIERS
Legal Section
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January 20, 2022

Ms. Luly Massaro
Public Utilities Commission
89 Jefferson Boulevard
Warwick, R.I. 02888

Re: Docket 5208- The Narragansett Electric Company d/b/a/ National Grid- Forward Capacity Market

Dear Ms. Massaro:

Attached is the Division's statement concerning the Financial Assurance Penalty incurred in the Forward Capacity Market, as discussed in Docket 5189. We will copy the service lists for both Docket 5189 and Docket 5208.

Very Truly Yours,

/s/ Margaret L. Hogan, Esq.

cc: Linda D. George, Esq., Administrator, DPUC

STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION

THE NARRAGANSETT ELECTRIC CO. D/B/A	)	
NATIONAL GRID	)	DOCKET NO. 5208
FORWARD CAPACITY MARKET	)	

DIVISION OF PUBLIC UTILITIES AND CARRIERS' POSITION

The Division of Public Utilities and Carriers (Division) hereby submits its position on the contested issue in this docket. First, the Division would like to express its appreciation to National Grid (Company) for attempting to resolve the issue and negotiating with the Division in good faith. Unfortunately, based on the record established in this docket and in Docket 5189, the Division is no position to recommend to the Public Utilities Commission (Commission) that ratepayers bear the cost of any portion whatsoever of the ISO-New England (ISO-NE) Financial Assurance (FA) penalty levied on the Company in the amount of $332,781.54.

While the Division acknowledges that the Company's participation for over a decade in ISO-NE's Forward Capacity Market (FCM) has generated substantial benefits to ratepayers and that this is the first time the Company has incurred such a penalty, the record is devoid of any fault on the part of ratepayers or exogenous circumstances outside of the Company's control in this matter. In fact, as a purely internal function, the Company has total control over the level or extent of its participation in the FCM and does its own risk-to-benefits analysis completely free of any ratepayer or stakeholder input. In addition, the Division takes the position, based on the record and data responses provided in this docket and in Docket 5189, that the Company knew or should have known how to properly mark all its Capacity Supply Obligation (CSO) as commercial.

The Division can appreciate that highly technical aspects of ISO-NE's rules for participation in the FCM. However, the Company has trained analysts and consultants, funded by ratepayer dollars, whose job it is to stay diligent and alert to any changes, not only in the FCM rules but in circumstances like the transformation of the lighting market, that may affect the Company's risk-to-benefit analysis and ultimately determines the level of the Company's aggressiveness in bidding into the FCM. The Company was in the ideal position to foresee that the expiration of several measures would render savings from those measures unclaimable. The Division credits the Company for taking subsequent action to avoid a penalty in the future. However, the fact remains that it failed to properly adjust in time to avoid the FA penalty in first instance.

The Division should note that the success of the program, while more lighting savings were claimable, contributed to the Company's failure to adjust. There simply had been no need, prior to the transformation of lighting and the expiration of several 10-year measures, to focus on the rules of properly marking CSOs as commercial. The Division reiterates that the end life of hundreds of 10-year projects and the decrease in claimable lighting measures due to the transformation of lighting were completely foreseeable to the Company for years, even beyond the 2 or 3-year forecasts used for bidding into future FCM auctions. It is also worth noting that although the Division previously acknowledged the benefits delivered to ratepayers resulting from the Company's participation in the FCM, the benefits relating to the FA penalty at issue here, have yet to be reaped. Those benefits will not come to fruition until June of 2024 through May of 2025.

The Division notes that although the Company does not have a direct financial incentive for its participation in the FCM here, unlike its participation in the FCM for Renewable Energy Growth projects, the Company still reaps the financial benefits of strengthening its Energy

Efficiency (EE) program via the Performance Incentive Mechanism's substantial earnings potential. Finally, the Company has also enjoyed success and recognition as a leader in energy efficiency programs.

Therefore:

1. The Division seeks a ruling, based on the record, that ratepayers should not bear any cost associated with the FA penalty and that National Grid's shareholders bear the full cost of the penalty.
2. In the alternative, if the Commission find the record insufficient to rule at this time, the Division respectfully requests the Commission conduct an evidentiary hearing to provide the Company with an opportunity to bear its burden of proof to justify why the ratepayers should bear any part of the FA penalty.

Respectfully Submitted:
Division of Public Utilities & Carriers,
by its Attorney

/s/ Margaret L. Hogan, Esq. (#5006)
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CERTIFICATION

I do hereby certify that a true copy of the within was served upon all parties on the Service List for Dockets 5189 and 5208 on the 21st day of January 2022.

/s/ Margaret L. Hogan, Esq. (#5006)