

**NATIONAL GRID MONITORSHIP: FIRST QUARTERLY REPORT**  
**(March 13, 2020)<sup>1</sup>**

**Pursuant to the Settlement Agreement of November 24, 2019 (the “Settlement”)**  
**between the New York State Department of Public Service (“DPS”) and National Grid**  
**USA, The Brooklyn Union Gas Company d/b/a National Grid NY and KeySpan Gas**  
**East Corporation d/b/a National Grid (collectively, “National Grid”)**

**I. Executive Summary**

The Settlement between the State of New York and National Grid provides for the performance of a number of critical steps in order to address harm caused to customers by the recent moratorium on customer connections, immediate supply capacity needs through winter 2020/2021, and long-term planning and solutions so that natural gas capacity meets customer demand into the future safely and without the threat of a further moratorium.

A keystone element of the Settlement – National Grid’s provision of a Long-Term Capacity Report (the “LT Report”) – was issued to the public on February 24, 2020, prior to public meetings being held in March 2020 to address the long-term options discussed in the LT Report. Although the Monitor’s assessment of several elements of the LT Report (and National Grid’s compliance with other obligations under the Settlement) will require more analysis in the coming months, the two findings below are provided to place in context further consideration of the LT Report:

A) The LT Report includes certain elements that, at least when considered individually, may not be practicable to address increasing demand forecasts for natural gas. Had National Grid been better prepared and acted sooner, this situation might have been avoided. For example, the LT Report options include a pipeline as to which authorities already have twice denied permits, and other options with implementation timelines of multiple years which exceed the forecast for supply capacity meeting demand and contemplate the potential imposition by National Grid of additional moratoria.

B) As evidenced by National Grid’s need to create a steering committee and engage additional resources in order to meet its obligations under the Settlement, National Grid lacks sufficient organizational clarity and definition in its institutionalized roles and responsibilities in order to anticipate the gap between demand and capacity for natural gas in the Service Territory<sup>2</sup> and to prepare and maintain adequate contingency plans to avoid a moratorium. Specifically, National Grid lacks a senior executive and staff dedicated to monitoring compliance and risk

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<sup>1</sup> A draft of this First Quarterly Report was provided for comment to National Grid and to DPS on February 28, 2020. Insofar as the Monitor independently deemed appropriate, their comments have been incorporated herein. Unless a later time is indicated, the First Quarterly Report contains the Monitor’s findings as of February 28, 2020.

<sup>2</sup> In this report, the term “Service Territory” refers to the downstate New York areas where National Grid provides natural gas services – *i.e.*, Brooklyn, Queens, Staten Island, and Long Island. Insofar as National Grid’s moratorium is discussed below, the moratorium did not extend to Staten Island.

issues such as any future gap between demand and supply capacity, and National Grid lacks a sufficiently mature organizational framework for forecasting and modelling scenarios relating to that same key issue, as to which responsibilities currently are spread across multiple groups.

In addition, the following recommendations are made:

1) Discussions at the public meetings, as well as the supplemental LT Report (“Supplemental LT Report”) to be issued by National Grid after the public meetings, should provide greater clarity regarding:

a. the feasibility, cost, and risk/benefit choices attached to the options (and potential combinations of options), including “plain English” descriptions of the residual risk (*i.e.*, the timing, scope and likelihood) of a moratorium even if the option(s) is pursued, including the extent to which compressed natural gas (“CNG”) trucking would still be used; and

b. the timeline(s) for pursuing and successfully executing upon various options (and potential combinations of options), including necessary efforts such as permitting and construction, in order for any option (or potential combination of options) to be advanced in a manner that minimizes the risk of a moratorium.<sup>3</sup>

2) National Grid should conduct a review of its governance structure and evaluate establishing the standalone role (with suitable staffing and resources) of a Chief Compliance Officer, having the responsibility (among other duties, to be structured in the consultation process recommended in 4 below) of ensuring that National Grid and its relevant departments and leadership take sufficient steps to anticipate and manage risks, test and monitor controls, and prepare contingency plans. The Chief Compliance Officer should be independent of the operational executives and report at least annually to the Board of the National Grid parent company or a committee thereof.

3) To ensure the integrity and quality of data, modelling and forecasts relied upon by National Grid, National Grid should evaluate the benefits of retaining internal or external personnel qualified and capable of conducting periodic independent reviews and testing of the data development, modelling and forecasting processes utilized by National Grid in assessing whether future demand will exceed supply capacity, including providing recommendations for potential improvements to the assumptions, data inputs, models and other tools. Among these items, consideration should be given to whether the current Design Day standard (described below at p. 11) remains an appropriate standard for future planning by National Grid. Such independent reviews should be conducted in collaboration with the Chief Compliance Officer and the results incorporated into periodic examinations by the Chief Compliance Officer.

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<sup>3</sup> After the issuance of the draft First Quarterly Report on February 28, 2020, the Monitor has reiterated to National Grid the importance of taking timely steps to implement this Recommendation 1. See Atts. 1 and 2 (letters dated March 3 and 10, 2020).

4) In connection with Recommendations 2 and 3 above, National Grid should engage outside management consultants regarding the suitability and manner of structuring the new roles, defining their responsibilities, and similar steps, in consultation with DPS. These steps should take place as soon as practicable and during the term of the Monitor so that the Monitor can consider whether National Grid complied with Recommendations 2 and 3 when issuing his Final Report.

In sum, National Grid's stakeholders now find themselves faced with limited options and time to evaluate a prudent and safe path forward to obtain long-term natural gas service, taking into account a myriad of factors spanning public safety, the environment, economic and commercial growth and many others. As a public utility operating in the State of New York, National Grid should be prepared at all times to deliver safe and reliable gas service, and must produce plans that identify gas supply options sufficiently far in advance of demand forecasts potentially exceeding capacity, so that steps can be taken without having the public face either the risk of a moratorium or an urgent need to obtain new supply capacity.

## **II. Background**

### **A. National Grid's Institution of the Moratorium to Residential Customers in May 2019**

National Grid supplies natural gas to approximately 1.2 million customers in New York City and 590,000 customers on Long Island. In order to operate in New York State, National Grid must provide "safe and adequate" gas service, as described further below. A core part of National Grid's mission therefore is to ensure that it possesses sufficient natural gas capacity to meet the demand of its customers. Accurately forecasting natural gas capacity and customer demand is critical in order to avoid a scenario by which National Grid cannot provide service. The consequences of National Grid's lacking sufficient capacity to meet demand can be severe, including the inability to provide natural gas needed by existing customers on some of the coldest days and/or the inability to connect new residential and commercial customers seeking service.

Data maintained by National Grid historically observed annual growth of natural gas demand at 2.4% and, as of May 2019 when National Grid placed a moratorium on connecting all new customers, National Grid forecasted an annual growth rate for 2020-2025 of 1.8%. As of May 2019, National Grid's data indicated that it possessed a lack of sufficient gas capacity to meet anticipated increased demand at the 1.8% rate, and this gap between forecasted demand and capacity prompted National Grid to institute the moratorium on new residential customers. As further described below, National Grid began the first phase of the moratorium in September 2018 with large commercial customers, in February 2019 the moratorium was extended to mid-size customers, and in May 2019 it was extended to residential customers.

Pursuant to the Settlement in November 2019, National Grid lifted the moratorium. In the weeks leading up to the Settlement, National Grid concluded – after having concluded differently in May 2019 – that it could lift the moratorium and still provide "safe and adequate"

natural gas service. Thereafter, National Grid revisited its demand forecast based on energy efficiency, demand response and other natural gas conservation commitments and newly estimated that the annual growth rate for 2020-2025 is between 0.8% and 1.1% (rather than the previous 1.8% forecast relied upon in issuing the moratorium). This significant shift in the demand forecast, and its implications for National Grid's provision of natural gas service in New York State, demonstrates the critical importance of data forecasting in this area.

#### 1. National Grid's Stated Reliance on NESE to Meet Demand

Averting a gap between natural gas demand and capacity can be achieved through a variety of means. Demand can be reduced if customers utilize more energy efficient appliances or equipment to burn natural gas, agree to purchase interruptible service (and use alternative fuels upon interruption), or shift to alternative fuels entirely. As to capacity, the available supply of gas for customers can be increased by obtaining gas via delivery through new or expanded pipelines, trucks or barges, storing it in the Service Territory via existing or new gas storage facilities (e.g., liquified natural gas ("LNG") peak shaving), or producing it in the Service Territory through new methods (e.g., renewable natural gas). In addition, other gas utilities use different tools to meet peak period demands, including propane air mixtures for example.

In May 2019, National Grid issued the moratorium because a Water Quality Certification ("WQC") application was denied by the New York State Department of Environmental Conservation ("DEC") for the Northeast Supply Enhancement ("NESE") project, a potential source of additional pipeline capacity being developed by Transcontinental Gas Pipeline Company, an interstate pipeline owned by The Williams Companies, Inc. In June 2019, the New Jersey Department of Environmental Protection also denied the WQC permit application along with coastal wetland, flood hazard area, and waterfront development permits. The required WQC permit for NESE also had previously been denied by DEC in April 2018.

Despite these permitting challenges facing NESE, National Grid relied heavily on the prospects of NESE moving forward and did not concurrently engage in robust contingency planning efforts in order to identify alternative options for increasing gas supply capacity and avoiding a potential moratorium. As commented by one executive, National Grid did not "think [NESE] would be this challenging," and the situation "turned on a dime in the last 15-18 months." As early as mid-2018, National Grid launched an affirmative advocacy campaign focused upon the potential future approval of NESE. Interviews with National Grid executives indicate that National Grid substantially relied upon the prospect of NESE proceeding in order for National Grid to continue to provide "safe and adequate" service.

#### 2. National Grid's Public Communications Leading to the Moratorium on Retail Customers

The emphasis placed by National Grid on the prospect of NESE being approved can be seen in the months leading up to May 2019, most visibly in its public communications with its customers. These communications reflect National Grid's increased reliance on NESE moving

forward, with the explicit warning of a potential moratorium on new connections or increased gas service. Exemplifying its messaging, National Grid advised the public of the following:

“Outlook without NESE:

- For the first time would have to turn away new gas customers.
- Lost opportunity to continue oil to gas conversions and emissions reductions.
- Reduced energy choice for customers.
- Greater price volatility during the winter months.
- Reliability decreased at existing, critical LNG facilities.”

Following the April 2018 NESE permit denial, National Grid began the first phase of the moratorium in September 2018 with large commercial customers. In February 2019, National Grid extended the moratorium to mid-size customers and, around this time, National Grid began to communicate to media and elected officials and warned that if the NESE pipeline permit was not approved, the moratorium would apply across all residential customers. In April 2019, a National Grid executive told the New York City Council that “without NESE, we will not be able to supply natural gas to new commercial, industrial and residential customers to heat their homes or run their businesses . . . . We can’t state it any more simply than that.” With the denial of the NESE permit application in May 2019, National Grid then implemented the broader moratorium extending to residential customers in the Service Territory.

National Grid took the position that the denial of the NESE permit application caused its institution of the moratorium. A May 17, 2019 public message by National Grid stated that it stopped processing applications for new or extended gas service in the Territory “[a]s a result of the [DEC’s] recent decision to deny ‘without prejudice’ a water permit for [NESE].” National Grid stated that no such residential, commercial or industrial applications would be processed “until the permits are received and the [NESE] project is allowed to proceed.”

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In an about-face from its prior reliance on NESE, National Grid began to revisit its forecasts and its options in material ways after the May 2019 moratorium, the commencement by New York State of administrative proceedings against it in October 2019, and execution of the Settlement in November 2019. For example, the Settlement itself states that National Grid “has been able to leverage new developments since it imposed the Moratorium” which allowed it to lift the Moratorium. In addition, National Grid identified a “previously-unknown to National Grid” source of peaking supply on the Iroquois Gas Transmission System. Further, National Grid included commitments it made in the Settlement on energy efficiency, demand response and natural gas conservation that led to its revision of the 1.8% demand growth forecast to a lower range. These efforts, while valuable, came only a few months after National Grid instituted the moratorium – which had been threatened and phased in over many prior months –

and after National Grid faced significant pressure to address the demand/supply gap through alternative means. This sequence of events indicates that National Grid might have avoided the moratorium altogether had it proactively taken more pronounced, aggressive steps earlier to address the risk of demand exceeding supply capacity.

## B. The Legal Context of the Moratorium

In defending the moratorium, National Grid has cited its inability to meet the requisite legal standard of providing “safe and adequate” gas service. Specifically, under New York law, “[e]very gas corporation, ... shall furnish and provide such service, instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable. All charges made or demanded by any such gas corporation, ... shall be just and reasonable and not more than allowed by law or by order of the commission.” N.Y. Public Service Law (“PSL”) § 65(1). Further, “in any area a situation under which a gas corporation supplying gas to such area is unable to meet the reasonable needs of its consumers and of persons or corporations applying for new or additional gas service, the available supply of gas shall be allocated among the customers of such gas corporation, in such manner as may be necessary to protect public health and safety and to avoid undue hardship, pursuant to rules and regulations as may be adopted by the commission, and that to carry out this declared policy the jurisdiction of the public service commission should be clarified.” PSL § 66-a(1).

National Grid has the responsibility as a public utility to make portfolio and reliability decisions that meet the needs of customers and that reduce the risk of undue hardship due to a lack of supply. Under the supervision of the New York State Public Service Commission (“PSC”), utilities must not only ensure reliability of service in order to meet the needs of customers at all times, but also must consider a range of options to meet their service obligations.

On November 12, 2019, Governor Andrew M. Cuomo issued a letter to National Grid providing 14 days’ notice of his intention to have New York State revoke National Grid’s certificate to operate in the Service Territory. Governor Cuomo challenged the conduct by National Grid in several core respects, including whether National Grid had taken adequate steps to avoid the moratorium, whether National Grid’s own failures were the cause of the moratorium, whether National Grid unduly relied upon the potential prospect of NESE moving forward, and National Grid’s lack of contingency plans and options. As stated by Governor Cuomo, “National Grid should have explored all options before denying service. Gas can be trucked, shipped, or barged, and other infrastructure could be proposed or additional unloading facilities installed. Electric service and demand response measures could be proposed. Heat pumps and renewable sources could be proposed. These options should have been explored and weighed by National Grid and made public for consumers to evaluate before National Grid denied gas service.”

## C. The Settlement between New York State and National Grid

The Settlement arose out of the PSC’s Order to Show Cause (“OSC”) of October 11, 2019, containing a series of allegations relating to the moratorium instituted by National Grid.

DPS staff conducted an investigation and found that National Grid was denying requests for new service and for increased service to existing customers renovating their homes or businesses and did not make a case-by-case basis to determine denial of service. The OSC maintained that the failure of National Grid to provide service and the lack of appropriate notice of the moratorium created an undue hardship for customers under PSL § 66-A (1).

On November 24, 2019, New York State and National Grid reached the Settlement, the terms of which include lifting the moratorium and imposing several obligations as to which the Monitor is to assess National Grid's gas operations and compliance. As highlighted by Governor Cuomo upon the announcement of the Settlement, and especially relevant to the findings of this First Quarterly Report, National Grid is "working to address the long-term supply problem and will present options in the coming months to the people of Brooklyn, Queens, and Long Island, letting them choose the best way forward for their communities." National Grid publicly confirmed this undertaking: "[W]e will present options for long term supply solutions that ensure our customers have the service they require and desire."

The Settlement Agreement includes the following key elements:

1. Reconnecting customers (Settlement ¶ II.a)

National Grid "shall lift the [m]oratorium" and "shall have made best efforts" within 30 days of the Settlement to contact and provide service to customers denied service between the imposition of the moratorium and early September 2019, except for customers who informed National Grid that they no longer want service. Within 45 days of the Settlement, National Grid "shall make best efforts" to contact and provide service to any potential eligible customers who applied for and were denied service prior to the Settlement but after the imposition of the moratorium. For new customers and large commercial and industrial customers, National Grid "shall provide service" as soon as practicable.

2. Customer assistance (Settlement ¶ VI.b)

National Grid "agree[d] to fund" up to \$7 million for a customer assistance plan to address hardships endured by customers affected by the moratorium, including hardships identified in complaints filed with the Office of the Attorney General of the State of New York.

3. Action Plan (Settlement ¶ III)

Within one week after the Settlement's effective date, "National Grid shall provide to [DPS] an action plan that shows how it will provide safe and adequate service to allow it to address the increased load associated with gas being provided" to customers previously denied service. "The action plan shall describe all supply, demand response, energy efficiency, and any other measures the Company will use to address such increased load and show how such measures will otherwise be employed to ensure it will meet the anticipated demands in its Service Territory."

#### 4. Long-Term Capacity Report (Settlement ¶ IV)

National Grid “shall prepare, and shall release publicly no later than three (3) months” after the Settlement, “an analysis of the long-term capacity constraints affecting its downstate operations.” The LT Report “shall present and analyze comprehensively and clearly all reasonably available options for meeting long-term demand, including but not limited to pipeline construction, LNG facilities, CNG facilities, renewable energy sources, conservation strategies, and inter-operable systems, and shall include recommendations as well as an identification of actions needed (including but not limited to policy and regulatory changes) to implement each option or options.”

National Grid further “agree[d] to work with [DPS] and local officials to conduct no fewer than four (4) public meetings to solicit public input” on the LT Report, the recommendations set forth in the report, and “any available alternatives.” The “meetings shall take place in Queens, Brooklyn, Nassau and Suffolk counties.”

National Grid also “agree[d] that a long-term option or options should be identified and agreed to by the State of New York by June 2020 to allow a safe adequate construction and transition period and have the long-term option or options in place and functioning in approximately two years.”

#### 5. Efficiency Plan (Settlement ¶ VI.a)

National Grid “agree[d] to fund” an energy efficiency plan with \$8 million to deliver a package of new energy efficiency, demand response, and conservation measures to reduce peak-day gas usage among current customers to enable new customer connections.

#### 6. Clean energy projects (Settlement ¶ VII)

National Grid “shall commit \$20 million towards clean energy projects and/or investments in New York-based startup businesses and technologies to reduce reliance on non-renewable sources as directed by the Director of the Division of Budget, in consultation with [DPS].” National Grid and its affiliates “shall be prohibited from receiving any such funds.”

Due to time sensitivity relating to the Action Plan (item 3 above) and the LT report (item 4 above), this First Quarterly Report makes certain initial findings and recommendations relating to them. Further assessment of those two items and other National Grid obligations under the Settlement will follow in later reports.

### **III. The Role of the Monitor Under the Settlement**

#### A. The Scope of the Monitor’s Role

The Settlement provides for DPS to select an independent Monitor to monitor National Grid’s natural gas supply operations and compliance with its obligations under the Settlement.



The scope of the Monitor’s role is described in a Protocol Agreement between DPS and National Grid, and includes review of the following items:

1. “National Grid’s actions to provide gas service to Initial Customers Denied Service, Other Initial Customers, and New Customers,” as those terms are defined in the Settlement. (Settlement ¶ II).

2. “National Grid’s implementation of the Customer Assistance Plan” (Settlement ¶ VI), including “[a]ssessing whether the Assistance Plan complies with the Settlement,” “National Grid’s progress in implementing the Assistance Plan,” and “National Grid’s accounting for the expenses of implementing the Assistance Plan and that shareholder funds are used to fund the Assistance Plan.”

3. National Grid’s Action Plan (Settlement ¶ III), including “[w]hether the Action Plan complies with the Settlement,” “National Grid’s progress in implementing the Action Plan,” and “National Grid’s accounting for the operations and maintenance costs and capital expenditures of implementing the Action Plan.”

4. National Grid’s LT Report (Settlement ¶ IV), including “[t]he development of the Report and the options evaluated and recommendations made therein,” and “the positions expressed by those who attend the required public meetings, which the Monitor shall attend.”

5. “National Grid’s implementation of the Efficiency Plan” (Settlement ¶ VI), including “[w]hether the Efficiency Plan complies with the Settlement,” “National Grid’s progress in implementing the Efficiency Plan in a timely manner,” “[t]hat shareholder funds are used for projects or programs incremental to energy efficiency projects or programs National Grid deploys pursuant to current or future Commission orders and supported ratepayer funds,” “[t]he actual realized peak-day (and annual) gas reduction resulting from the implementation of the Efficiency Plan,” and “National Grid’s accounting for the expenses of implementing the Efficiency Plan.”

6. “National Grid’s actions related to administering the funding of clean energy projects and/or investments” (Settlement ¶ VII), including “[t]hat National Grid, and [any] of its affiliates, whether or not regulated by New York State, did not receive funding related to” the clean energy project section of the Settlement, and “National Grid’s accounting for the funds to be used for clean energy projects and/or investments.”

In addition, the Monitor will provide Quarterly Reports through at least September 1, 2021, concerning National Grid’s compliance with its obligations under the Settlement.

## B. The Monitor's Investigative Process

Upon the Monitor's engagement, initial document requests were issued to National Grid on February 3, 2020, an introductory call with National Grid was held on February 4, 2020, and in-person meetings with National Grid executives commenced on February 11, 2020.

In regard to document collection, National Grid staff have been cooperative in seeking to discuss with the Monitor the scope of materials encompassed by the initial and subsequent requests and the time frame in which National Grid can reasonably provide the materials. While the staff engaged in this effort have made good faith efforts to satisfy the requests to date, substantial materials remain to be produced in response to the Monitor's requests, and system and personnel limitations appear to have curtailed the volume and timeliness of productions. Insofar as this process remains at an early stage, this First Quarterly Report does not make findings as to whether National Grid has assigned sufficient resources – both human resources and document maintenance tools – in order to address the Monitor's requests in a complete and timely manner and more generally to support National Grid's efforts to comply with the Settlement.

As to interviews, on February 11, 2020, National Grid assembled approximately 10 executives and presented to the Monitor an overview of its gas operations and plans for complying with the Settlement, which meeting lasted more than five hours. National Grid also has provided approximately 15 executives for individual interviews by the Monitor based on their respective subject matter expertise. These interviews were conducted in February 2020 and have been, and continue to be, supplemented by interviews of additional National Grid executives identified by the Monitor. In meetings to date, the Monitor has found National Grid employees to be candid and cooperative.

## IV. Natural Gas Demand and Supply Capacity

### A. Natural Gas and Consideration of Alternative Fuels

As emphasized by Governor Cuomo in his letter to National Grid of November 12, 2019 (see above at p. 6), public utilities in New York State are charged with public service responsibilities for the welfare of New Yorkers which reach outside of their business interests. In other words, in order to maintain its franchise in New York State, National Grid must look beyond its self-interest in selling gas to customers and also consider the "economy, efficiency, and care for the public safety, the preservation of environmental values and the conservation of natural resources."

The forecast of customer demand for natural gas plays an integral role in determining whether sufficient supply capacity exists and, if not, what options need to be pursued in order to avoid a moratorium or other risks such as curtailment or disruption of existing service. While customer demand for natural gas can be reduced through steps involving demand response and energy efficiency, demand also can be lessened if customers convert to electricity or otherwise utilize alternative fuels rather than gas.

Notably, National Grid does not supply electricity in the Service Territory (although it does so in certain upstate New York regions), so promoting the conversion to electricity or alternative fuels in the Service Territory would not, when viewed narrowly, be in National Grid's economic self-interest. Although National Grid identifies electrification as a substitute for natural gas in the LT Report (see p. 20 below), as described by a National Grid senior executive, National Grid historically did not "actively try to get people to electrify" in the Service Territory because it is not "our business." Internal documents indicate that, prior to the OSC in October 2019, National Grid had adapted a largely "watch-and-wait" posture regarding developments for NESE, even as National Grid imposed the additional phases of the moratorium. As stated by another senior executive, providing incentives for gas customers to shift to alternative fuels is "obviously not something [National Grid] had been advocating for." As urged by Governor Cuomo, National Grid's outlook needs to evolve beyond focusing upon its business self-interest in order to serve the public interest.

Adopting such a broad and long-term perspective on energy demand in the Service Territory is critical in determining how best to move forward in the public interest. Accordingly, the LT Report and related public discussions should include factors beyond the question of how to meet increased natural gas demand with supply capacity. Considerations should include the relative merits of alternative fuels, their cost to consumers, their impact on the environment, consequences for commercial development, and similar important topics of public interest.

#### B. How National Grid Gauges Natural Gas Demand

When planning natural gas capacity requirements, National Grid measures demand against a "Design Day," a 24-hour period with an average temperature of zero degrees in Central Park, thereby reflecting customer demand on the highest flow day. In order to ensure that they are able to provide "safe and adequate" gas service, utilities like National Grid commonly design their natural gas distribution systems and operations to meet customer needs under such extreme weather conditions.

Unlike electric utilities, which are subject to reliability standards which require sufficient regulation to maintain system frequency and reserves equal to the utility's largest contingency, gas utilities manage their gas supply needs through storage, peak shaving facilities or other means of balancing their systems. Insofar as National Grid's supply capacity has struggled in recent times to keep up with demand under its Design Day projections, National Grid effectively operates with "no operating margin" according to one senior executive. In other words, National Grid's forecasting assumes that 100% of capacity will be available on any given day, including the Design Day, which itself may lead to operational risk. As commented by one executive, the system design has "no resilience" and has "to run perfectly all the time." Given that the last Design Day was in 1934, the need to supply capacity for such an event may be highly infrequent, but National Grid plans for such an event and, absent possessing sufficient capacity to meet demand in a Design Day scenario, contemplates a moratorium. Pursuant to Recommendation 3 above, National Grid should revisit the current standard it uses to define Design Day, e.g., by possibly raising the temperature from zero degrees to something higher.

As to the long-term perspective on natural gas demand, trends such as customers switching from oil and other fuel sources to natural gas have increased demand in the Service Territory over time. This was due, at least in part, to policies promoting the move away from those heavier fuels to natural gas which was perceived as a cleaner burning fuel. In addition, the price of natural gas has been at historically low levels over recent years, making natural gas more attractive than electricity for home heating. Natural gas, however, is seen by New York State and New York City as posing climate risks, and they have looked for ways to reduce dependence on natural gas. The manner and speed with which demand for natural gas will change in the Service Territory remains to be seen.

National Grid does possess certain tools which seek to reduce demand at peak times on its system. For example, the National Grid tariffed Temperature Control (“TC”) service provides peak shaving; TC customers have agreed to purchase interruptible service and fuel switch when temperatures drop to an agreed-upon level. National Grid has installed devices which allow it to automatically switch the TC customer to the alternate fuel and can therefore include that demand reduction in its forecasting. In addition, in 2017, National Grid implemented a Commercial & Industrial (“C&I”) demand response pilot program which provides financial credit to firm customers who reduce their gas usage by a pre-determined amount during peak demand periods. Under the C&I demand pilot, the participating customers were in control of the decision to reduce their gas usage so forecasting demand reduction was less certain. These programs have provided National Grid with an opportunity to reduce demand during peak times, although only the TC program provides a good estimate of the amount demand would be reduced when the weather program parameters were reached.

As stated above (at p. 8), the Settlement provides for National Grid to fund an energy efficiency plan with \$8 million to deliver a package of new energy efficiency, demand response, and conservation measures to reduce peak-day gas usage among current customers to enable new customer connections. Under the Settlement, National Grid also commits \$20 million towards clean energy projects and/or investments in New York-based startup businesses and technologies to reduce reliance on non-renewable sources, as directed by the Director of the Division of Budget in consultation with DPS.

### C. A Lack of Gas Supply Capacity Can Have Far-Reaching Implications

In a scenario where natural gas supply capacity cannot meet demand, the consequences extend beyond the lack of fuel reaching a given customer, as National Grid well understands. Because natural gas is transmitted via pressurized lines, scattered outages reduce the pressure in the system, which can produce a cascading inability to deliver fuel to multiple other customers and can result in widespread outages. In order to reinstitute service, pressure must be restored to the system through the addition of fuel to the lines, and each customer must be visited in order to turn their gas on safely at the delivery point.

In the face of such rampant outages to existing customers if demand is allowed to exceed supply, and the challenges in restoring service after widespread outages, initiating a moratorium in advance of outages can be viewed as a preferred path even though the moratorium itself means

that certain (prospective) customers will not get natural gas service and existing customers will not be provided with expanded service. As exemplified in two other National Grid incidents summarized below, natural gas moratoria tend to occur because of infrastructure failure or a lack of capacity and planned alternatives.

In Cape Cod, National Grid recently lifted a moratorium that had lasted over five years. While National Grid is now accepting applications in this service area, new connections or expansions had not occurred since October 2014. The moratorium was instituted due to a lack of distribution system capacity and, in particular, because piping could not safely handle pressure in the gas line. National Grid reduced pressure in the main line and did not accept new connections due to the loss in capacity. As a result, contractors have not been able to connect new homes to natural gas, and homeowners were unable to install new gas appliances. National Grid is expected to finish replacing over 18 miles of piping in early 2020.

In Rhode Island, National Grid shut down service on Aquidneck Island for seven days in January 2019 and left 7,455 customers without heat or gas service. The suspension resulted from a low-pressure condition on a pipeline branch. According to the Rhode Island Division of Public Utilities and Carriers, the low-pressure condition arose from: 1) increased demand due to low temperatures, 2) the failure of an LNG facility operated by National Grid, creating increased demand on the pipeline, and 3) a valve on the pipeline malfunctioning and restricting the flow of gas.

With this background, National Grid should demonstrate to its New York stakeholders that it understands the seriousness of potential consequences of its conduct and is prepared to meet its core obligation to meet demand with adequate supply capacity in the Service Territory.

## **V. National Grid's Compliance with the Settlement**

### **A. National Grid's Governance Structure**

In executing on its obligations under the Settlement, National Grid established a Steering Committee with assigned work streams aligning to key deliverables under the Settlement. Senior U.S. executives sit on the Steering Committee, which is led by the Chief Operating Officer (“COO”) of National Grid’s U.S. Gas Business Unit (“GBU”). In addition, the Steering Committee reports up to the U.S. Chief Executive Officer (“CEO”) as well as to global executives of National Grid. In many respects, the establishment and maintenance of the Steering Committee presents a positive, affirmative step by National Grid to address its responsibilities, and related materials reviewed to date by the Monitor reflect a substantial effort to manage and monitor compliance with the obligations under the Settlement.

Over the long term, however, the Steering Committee is insufficient to address and monitor these areas adequately, especially those involved with far-reaching risk planning efforts so that natural gas supply capacity will meet demand. Members of the Steering Committee hold significant full-time roles with extensive responsibilities in the organization. The Steering Committee meeting agendas afford only limited periods of time to discussion of particular topics

(e.g., 5-7 minutes). And during approximately the last year, several Steering Committee members arrived in their current roles; various roles have been created or re-defined; and multiple similar committees have been stood up with overlapping membership. National Grid's management has undergone significant transition at a time of substantial stress.

Some National Grid executives compared the Steering Committee to an "incident response" or "disaster recovery" team, an organizational model familiar to utility companies when addressing short-term weather or other emergencies. In addition, the Monitor has identified a number of similar committees and cross-disciplinary groups at National Grid having important roles in managing natural gas demand and supply capacity. The current situation calls for National Grid to invest in more institutionalized and well-delineated means of addressing these issues and adopting sustainable long-term perspectives and preparations.

Governance at National Grid lacks compliance and risk personnel at a senior level having responsibility and resources to identify, examine and manage the key risks, suitable controls and contingency planning needed in order to avoid a future moratorium or other significant risks. To be precise, no dedicated executive with the title of Chief Compliance Officer or Chief Risk Officer sits on the U.S. executive team reporting to the U.S. CEO of National Grid, nor on the executive team reporting to the COO of the U.S. GBU at National Grid, nor on the executive team reporting to the New York Jurisdiction President of National Grid.

The creation of the role of Chief Risk Officer previously had been recommended to National Grid by an outside consultant in 2014 in conjunction with a management and operations audit. National Grid modified the recommendation by designating the U.S. General Counsel (a predecessor to the current U.S. General Counsel) also the U.S. Chief Risk and Compliance Officer. Today, neither the U.S. General Counsel nor any role reporting to her holds such a title, although some staff assist in the reporting of compliance and risk issues to National Grid's global risk and compliance functions based outside the United States. Discussions recently have occurred at National Grid revisiting the structure of the risk and compliance functions, but these discussions have not resulted in the creation and filling of any such senior roles.<sup>4</sup>

In approximately January 2019, National Grid's U.S. GBU did establish a Risk and Compliance Committee which, like the Steering Committee established later in 2019, includes a cross-section of senior leadership. The Risk and Compliance Committee serves the beneficial aim of addressing the prior perceived "lack of transparency" of compliance and risk issues at the senior leadership level, according to a National Grid executive, and efforts are being taken by staff to identify items from those meetings on a risk register. In essence, the Risk and Compliance Committee seeks to offer process management support and a reporting mechanism for business leadership around certain risk issues, but this format still results in dispersed responsibility for identifying and managing risks. As acknowledged by a senior National Grid

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<sup>4</sup> After the issuance of the draft First Quarterly Report, National Grid provided additional detail to the Monitor regarding actions taken by it to define and fill such a role. While encouraging, these efforts require further consideration to ensure that sufficient independence and resources are provided to the role of U.S. Chief Risk and Compliance Officer. See Att. 3 (letter dated March 5, 2020).

executive, National Grid has not achieved a risk and compliance model having a “mature” second and third line of defense. Although National Grid has utilized outside consultants to support various efforts, it did not obtain such assistance when creating the Risk and Compliance Committee.

In sum, the risk of a gap between gas demand and supply capacity is an ever-present concern for National Grid’s ongoing provision of service in New York State, and the recent ramping up of resources by National Grid to address the risk comes late. Over past years, National Grid might have pursued such steps, rather than awaiting the moratorium and the follow-on Settlement mandating that National Grid undertake intensive efforts to redress the moratorium and any future gap between gas demand and supply capacity. Such key risks should be managed in the normal course of business through a dedicated senior role having sufficient resources, rather than through more ad hoc “crisis management” tools.

#### B. National Grid’s Forecasting Resources

In contrast to the lack of a Chief Compliance Officer or Chief Risk Officer, a professional Data Analytics group does exist at National Grid and holds ostensible responsibility for certain of the key forecasts that show the potential gap between demand and supply capacity. While the Data Analytics group has determined that its historical forecasting has fallen within a suitable range of error, no separate internal or external personnel act as an institutionalized independent check or control on the data, models or methodology used by the Data Analytics group.

In conjunction with the Settlement, National Grid modelled potential results from the energy efficiency, demand response and natural gas conservation efforts that were incorporated into the Settlement, and this led to the adjustment from the forecasted demand of 1.8% growth (when National Grid implemented the moratorium in May 2019) to the lower range (0.8% to 1.1%). Especially given the very serious implications of the moratorium, the fact that the forecast was adjusted— an unusual event for National Grid – shows that further review of National Grid’s forecasting processes is merited. As described by a senior National Grid executive, the forecasting model is “in a process of evolution” and needs to project in a “more scenario-based world.” Since the Settlement, National Grid has retained an outside consultant to supplement the work of the Data Analytics group and to begin developing improved economic models with more advanced scenario analysis.

Moreover, the Data Analytics group does not operate alone in producing forecasts which are critical to determining whether National Grid possesses sufficient supply capacity to meet demand. Specifically, the Data Analytics group consults with the Customer group when creating estimates of future demand. These results then feed into a Strategic Asset Planning group which conducts a hydraulic analysis to determine where gas supply should be delivered in order to maintain pressure and to serve demand. And a fourth team, the Energy Procurement group, identifies and procures capacity and natural gas supply in an effort to meet the forecasted customer demand. Thus, at least four groups – Data Analytics, Customer, Strategic Asset Planning, and Energy Procurement – having distinct responsibilities and operating under separate organizational leadership play essential roles in evaluating how National Grid can

provide supply capacity to meet anticipated demand. Further illustrating the fluid situation, a Gas Planning and Forecasting Governance Board meets to maintain open communication among relevant groups, and the group leading the meetings rotates during the year. While coordination exists across these groups – according to one executive, the goal is teamwork rather than “silos” – no single role or group holds the overarching responsibility for overseeing these critical forecasting efforts.<sup>5</sup>

### C. National Grid’s Action Plan (Settlement ¶ III)

#### 1. Elements of the Action Plan

At a high level, the Action Plan seeks to ensure that gas supply capacity will meet demand in a Design Day scenario during the Winters of 2019/2020 and 2020/2021, pending the awaited increase in supply capacity coming from implementation of one or more options under the LT Report. In other words, the Action Plan was not developed with the goal of being sustainable over the long term but as a series of stop-gap measures in order to avoid a moratorium. Epitomizing the standup of the Action Plan in reaction to urgent necessity, responsibility for its execution sits with an executive role created in December 2019 and matrixed to leverage other resources at National Grid.

The key elements of the Action Plan include providing additional supply through the “previously-unknown to National Grid” source of peaking supply on the Iroquois Gas Transmission System which has been contracted through winter 2021/2022, as well as CNG and LNG projects, while reducing demand through additional demand response. Most notably, the Action Plan relies heavily on CNG as a source of supply, which comes in the form of trucking CNG from Pennsylvania to National Grid facilities in Glenwood and Riverhead, New York. This procedure raises risk and reliability questions, for example, because it involves trucking CNG from a distance during the coldest weather and requires complex equipment in order to deliver the CNG off of the trucks, i.e., CNG must be decompressed before being injected into the National Grid distribution system. Engineering executives at National Grid in particular voiced concern about the dependability and large-scale reliance upon CNG for meeting Design Day needs over the long term. While the prospect of dozens of trucks delivering CNG in order to meet demand may be of low likelihood in any one year given the infrequency of a Design Day, National Grid’s planning scenarios are based upon meeting demand in such stressful conditions.

Further, in order to decompress sufficient CNG as required in a Design Day scenario, National Grid contemplates needs in the Service Territory both (1) to expand one of two existing CNG facilities, and (2) to build a third CNG facility (and potentially also a fourth CNG facility). All such construction would depend in part on receipt of necessary government permits and approvals. Accordingly, the success of the Action Plan – and the ability to avoid another

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<sup>5</sup> Documents provided to the Monitor by National Grid after the issuance of the draft First Quarterly Report indicate that the Governance Board was stood up in September 2019 and, according to one National Grid executive at that time, was intended “to ensure there is proper governance around Gas Planning and Forecasting since the groups involved report up to 3 different Sr. VPs.”



moratorium in Winter 2020/2021 – depends in part on whether permitting can be obtained timely, if at all, for a third CNG facility. According to National Grid, the optimal site for the third CNG facility is in Greenpoint, Brooklyn, given its proximity to delivery for New York City customers as compared to trucking CNG to a new facility on Long Island and then transmitting gas from Long Island to New York City customers. Building a CNG facility in Greenpoint would require permitting from New York City. The viability of obtaining necessary permits was placed in some doubt when Mayor de Blasio issued Executive Order 52 on February 6, 2020, which states that “the City will not support the addition of infrastructure within its energy shed that expands the supply of fossil fuels via pipelines or terminals for the transfer of fossil fuels ....” To be clear, National Grid indicates that the permit approval and subsequent construction of a third CNG facility is critical to the success of the Action Plan for Winter 2020/2021.

In comparison to CNG under the Action Plan, LNG storage provides some but much less potential relief for supply capacity, because limitations exist on (a) the size of LNG storage facilities that can be built in New York State and (b) deliveries of LNG within New York State by truck. *See* 6 NYCRR § 570.2(b); 6 NYCRR § 570.4(a). Even so, the Action Plan does contemplate certain benefits from the use of an existing LNG facility in Greenpoint, Brooklyn. In contrast to relying on this Greenpoint facility, the LT Report separately looks at LNG as a potential long-term option, insofar as an LNG storage facility might be placed offshore or LNG imported through a new LNG import terminal (see p. 19 below). Accordingly, insofar as these steps to rely upon CNG are emphasized in the Action Plan, National Grid does not view them to be sustainable in order to meet anticipated demand over the long term. As currently conceived by National Grid, the Action Plan ultimately should become unnecessary and transition to execution of one or more options under the LT Report in order to manage the risk of demand exceeding capacity.<sup>6</sup>

To further support gas capacity, the Action Plans looks to the Metropolitan Reliability Infrastructure (“MRI”) project as a means of providing flexibility in how gas supplies are delivered to meet demand. In particular, the MRI project has been substantially built, but the final phase remains under review and development, the prospects of which remain outstanding. One National Grid executive described MRI as a “critical reliability project” for delivering natural gas under the Action Plan. National Grid is “still modelling” the consequences if MRI is not completed in 2021, and whether MRI’s absence would cause the Action Plan to fail.

Separate from capacity issues, the Action Plan also seeks to reduce demand for gas through demand response and energy efficiency measures, such as through thermostats, energy efficiency upgrades (e.g., weatherization), and other such steps. If voluntary steps are inadequate to close the gap between demand and supply capacity, National Grid plans as a last resort to curtail demand by stopping the flow of gas to certain commercial customers who do not have critical needs to operate. Such “load-shedding” is a labor-intensive process which requires National Grid physically to visit the customer in order to reduce service.

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<sup>6</sup> Nonetheless, the LT Report (see below, at p. 20) repeatedly refers to CNG trucking as a potential ongoing necessity in order to meet demand without a moratorium, depending on what long-term option might be pursued.

## 2. National Grid's Progress in Implementing the Action Plan

As reviewed above, multiple pieces of the Action Plan remain outstanding in key respects, including the selection, permitting and construction of a new CNG facility and the completion of the MRI project. Although National Grid continues to model the impact of completing the MRI project (or its absence), grounds do not currently exist to conclude that sufficient steps have been completed at this time under the Action Plan in order to avoid the risk of a moratorium in Winter 2020/2021. Subsequent reports by the Monitor will update on implementation of the Action Plan.

## 3. National Grid's Settlement Compliance.

Per above, subsequent reports by the Monitor will update on National Grid's implementation of the Action Plan and, accordingly, its compliance with its related obligations under the Settlement.

## 4. National Grid's Accounting for Operations and Maintenance Costs and Capital Expenditures

Similarly, given the immature stage of National Grid's execution on the Action Plan, no assessment can be made at this time of the operations and maintenance costs and capital expenditures involved in its implementation.

## D. National Grid's Long-Term Capacity Report (Settlement ¶ IV)

### 1. National Grid's Development of the LT Report

As discussed above (at pp. 4-5), until the Settlement in November 2019, National Grid had relied predominantly on the prospect of NESE providing gas supply in order to meet forecasted demand. However, National Grid could have begun intensively evaluating options like those in the LT Report commencing in April 2018 (if not earlier), when NESE's WQC application was first denied and National Grid was on notice that NESE might not be a viable source of supply. National Grid at that time instead drove forward efforts specifically geared to advocate for NESE's approval.

In order to produce the LT Report and meet its other obligations required by the Settlement, National Grid formed a Steering Committee under the leadership of its Chief Operating Officer for U.S. Gas, as described above (at p. 13). The recent establishment and operation of the Steering Committee, as well as its creation and maintenance of related issue tracking and similar management tools, generally indicates a high level of seriousness and professionalism. As previously stated, however, the absence of institutionalized senior roles dedicated to compliance and risk has impaired the organization's ability to address the gap between forecasted demand and supply capacity, which resulted in National Grid's implementation of the moratorium in May 2019.

Finally, National Grid executives continue to struggle to identify suitable alternative options (and combinations of options) given the limited remaining time National Grid possesses to consider and implement any long-term plan. Reflective of National Grid’s challenge in identifying options that remain practicable to avoid a moratorium, a senior executive commented on a draft table of options approximately two weeks before the issuance of the LT Report: “At moment reads like everything difficult and unlikely apart from NESE.”

## 2. National Grid’s Release of the LT Report

On February 24, 2020, National Grid released the LT Report, together with announcement of six public meetings to be conducted in March 2020. National Grid stated its intention to take into account the feedback from the public meetings and thereafter to issue the Supplemental LT Report. While this First Quarterly Report by the Monitor makes observations regarding the development and content of National Grid’s LT Report, further assessment of the LT Report, the conduct of the public meetings, and the Supplemental LT Report will follow at a later date.

## 3. Public Meetings

National Grid selected six sites for its public meetings, with two in Brooklyn, one in Queens, one in Nassau County, and two in Suffolk County. According to National Grid, the public meetings “will provide the public and our customers with an opportunity to review each of the options [in the LT Report] independently, have conversations with subject matter experts and ask questions.” National Grid plans to accept feedback from attendees and has stated that it intends to provide people who do not attend meetings “equal opportunity” to provide feedback “prior to any final decision being made.” National Grid has set up a website for this purpose at <https://ngridlongtermsolutions.com/>.

## 4. Options Presented by National Grid in the LT Report

The LT Report breaks out its identified options into three categories of possible “approaches,” distinguished based on their reliance upon new infrastructure: (1) large-scale infrastructure; (2) distributed infrastructure combined with no-infrastructure solutions; and (3) incremental portfolio of no-infrastructure solutions.

### a. Large-Scale Infrastructure

In this category, National Grid identifies three possible options. Two involve the placement of LNG offshore – either at a deepwater port or an import terminal. The third infrastructure option is NESE. As to the two LNG options, the LT Report indicates that each would require several years to complete, and the import terminal would require a change in law (or waiver) from the New York State limitation on land-based LNG storage. According to the LT Report, neither of the two LNG options is more attractive than NESE based on any metric measured by National Grid, and they each are less attractive than NESE in several respects (i.e., reliability, cost, environmental impact, and community impact).

#### b. Distributed Infrastructure Solutions

In this second category, National Grid identifies several options of varying kinds – from an LNG facility, an LNG barge, and two transmission enhancements – none of which alone (as compared to the infrastructure options described immediately above) can increase supply capacity in order to meet anticipated customer demand needs. In addition, each of these options would require several years to complete, except for one option as to which efforts already commenced, i.e., the ExC Project to increase capacity on the Iroquois Gas Transmission System’s infrastructure.

According to the LT Report, even if such options were pursued and targets met, CNG trucking would be required in order to close the gap between demand and supply capacity. In other words, this category of options – even if successfully pursued – would not allow the “short term” CNG efforts under the Action Plan to be retired. As noted above (at p. 16), National Grid executives voiced concern around the reliability of CNG trucking under the Action Plan. Insofar as CNG trucking also appears in the LT Report, questions exist as to its reliability and scalability over the long term, which could result in moratoria or system outages.

#### c. Incremental No-Infrastructure Solutions

In this third and last category, National Grid seeks to meet demand for gas service by reducing demand, rather than enhancing supply capacity. Thus, this category includes items such as energy efficiency, demand response and shifting to electricity. As a whole, these options are most attractive in terms of safety and environmental and community impact according to the LT Report. However, their ability to close the gap between demand and supply capacity is highly uncertain in both amount and timing. The LT Report states that reliance on this category of options could result in a further moratorium as well as continued CNG trucking.

An internal presentation at National Grid summarized the “no infrastructure option” with the statement: “Even with aggressive program assumptions, closing the gap in the short term without infrastructure is challenging.”

#### d. Creating a Portfolio of Options

The LT Report acknowledges that only a large-scale infrastructure option could singly close the gap between demand and supply capacity. It goes on to consider briefly whether a combination of a distributed infrastructure option and a no-infrastructure option instead could close the gap and finds that CNG trucking – otherwise viewed by National Grid as a short-term solution not having high reliability – would need to continue over time in order to avoid a moratorium. As stated by a senior National Grid executive, given “the changing environment ... maybe portable solutions are no longer seen as bridging projects” and will be needed to close the demand/supply gap in the absence of long-term infrastructure investment.

# Attachment 1

March 3, 2020

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**VIA EMAIL**

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Philip DeCicco, Deputy General Counsel, National Grid  
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**Re: The Settlement Agreement of November 24, 2019 between the New York State Department of Public Service and National Grid**

Dear Ms. Viapiano and Mr. DeCicco:

As the public meetings approach next week, I write to convey the following views and recommendations. These will be incorporated as appropriate into the Monitor's quarterly reports.

First, as stated in Recommendation 1 of the draft First Quarterly Report dated February 28, 2020, the public meetings should include greater clarity (than National Grid conveyed in its Long-Term Capacity Report of February 24, 2020 (the "LT Report")) regarding:

- a. the feasibility, cost, and risk/benefit choices attached to the options (and potential combinations of options), including "plain English" descriptions of the residual risk (i.e., the timing, scope and likelihood) of a moratorium even if the option(s) is pursued, including the extent to which compressed natural gas ("CNG") trucking would still be used; and
- b. the timeline(s) for pursuing and successfully executing upon various options (and potential combinations of options), including necessary efforts such as permitting and construction, in order for any option (or potential combination of options) to be advanced in a manner that minimizes the risk of a moratorium.

Yesterday, March 2, 2020, National Grid issued a "summary" to the public of the LT Report, and the "summary" document does not satisfy Recommendation 1 above. The "summary" document (like the underlying LT Report which prompted my issuing Recommendation 1) does not make clear the risk of a moratorium if a given option is pursued, nor the extent to which CNG trucking would still be required in order to meet demand. Indeed, the "summary" document mentions neither a moratorium nor CNG trucking at all. In addition, although references exist to how much time is required to implement a given option, it is not clear which option(s) is practicable within a timeline that minimize the risk of a moratorium, what steps are necessary in order to implement the option(s), and generally how the options compare in these regards. In sum, National

Pamela Viapiano, Vice President  
Philip DeCicco, Deputy General Counsel  
March 3, 2020  
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Grid still has not provided the public with a clearly elucidated roadmap by which to evaluate and distinguish the relative merits of the option(s) presented.

Second, as indicated above, neither the “summary” document nor the underlying LT Report provides sufficient context for the LT Report. No background discussion is provided regarding the moratorium imposed by National Grid in 2018 and 2019, nor the Settlement reached with New York State in November 2019. Such context is necessary so that the public can appreciate the risk of a moratorium in the event that future demand exceeds supply capacity. Such context also is required so that the public correctly understands that National Grid’s current efforts to present options in the LT Report -- as well as other steps such as funding energy efficiency, demand response and clean energy projects -- are not voluntary but have been required of National Grid as a direct result of its Settlement with New York State following its imposition of the moratorium.

Third, by failing to discuss the Settlement in the LT Report and the “summary” document, National Grid has foregone an opportunity to publicize to customers the existence of the Assistance Plan available pursuant to the Settlement. As National Grid executives recognized in interviews, this \$7 million Plan has been utilized to date only to a very limited extent. National Grid should take every reasonable opportunity to let customers and others with potential hardship claims know about the availability of the Assistance Plan, and that includes when National Grid engages with the public about the LT Report.

Fourth, both the LT Report and the “summary” document are insufficiently publicized on National Grid websites, and they are very difficult to find even when one affirmatively takes steps to search for them.



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Philip DeCicco, Deputy General Counsel  
March 3, 2020  
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I strongly encourage National Grid to address these matters as soon as possible, through additional materials and communications being distributed by National Grid to the public in connection with the public meetings and at the public meetings themselves.

Sincerely,



Adam H. Schuman

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# Attachment 2

March 10, 2020

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**VIA EMAIL**

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**Re: The Settlement Agreement of November 24, 2019 between the New York State Department of Public Service and National Grid**

Dear Ms. Viapiano and Mr. DeCicco:

I write further to my letter dated March 3, 2020 (copy attached). In short, National Grid has taken no material steps to address points 1 and 2 from that letter in the last week, which is particularly concerning because public meetings have now commenced. In addition, these points in my letter were reviewed in depth with National Grid executives during a phone call on March 4, 2020. By close of business today, please confirm that a copy of the March 3, 2020 letter, along with my draft First Quarterly Report, have been provided to senior executives Cordi O'Hara and John Bruckner. Given the imminence of the second public meeting to be held on March 12, 2020, National Grid needs to take steps to address these items immediately so that the public receives a clear understanding of the issues at stake with the LT Report. For ease, I repeat here that National Grid needs to be more clear with the public regarding:

- a. the feasibility, cost, and risk/benefit choices attached to the options (and potential combinations of options), including "plain English" descriptions of the residual risk (i.e., the timing, scope and likelihood) of a moratorium even if the option(s) is pursued, including the extent to which compressed natural gas ("CNG") trucking would still be used; and
- b. the timeline(s) for pursuing and successfully executing upon various options (and potential combinations of options), including necessary efforts such as permitting and construction, in order for any option (or potential combination of options) to be advanced in a manner that minimizes the risk of a moratorium.

Punctuating my concern, at the first public meeting last evening in Hicksville, speakers from the public raised issues regarding the moratorium and the context in which the LT Report was produced, without National Grid having addressed such matters. Further, as discussed with your executives on March 4, the public was not provided with a clear understanding of the relative costs and risk/benefits of the options presented by National Grid, including the relative risks of

Pamela Viapiano, Vice President  
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another moratorium and the likelihood that CNG trucking would be necessary with any given option. National Grid also has failed to convey how such options might need to operate in a portfolio in order to avoid the risk of a future moratorium. Put another way, attendees last evening could readily misunderstand – and this appeared to be the case with at least one speaker from the public – that a choice could simply be made of any single option identified by National Grid based on the relative cost between the options presented.

Last, in future public meetings, I recommend that National Grid commence statements by the public at 6:30 pm rather than 7:00 pm. Last evening, some attendees departed before they had an opportunity to participate in the public statement portion of the evening. In addition, if a greater number of attendees wish to speak at future meetings, one hour may be insufficient to accommodate them all.

Sincerely,



Adam H. Schuman

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# Attachment 3

March 5, 2020

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Philip DeCicco, Deputy General Counsel, National Grid  
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**Re: The Settlement Agreement of November 24, 2019 and the Protocol Agreement of January 31, 2020 (the “Protocol Agreement”), each between the New York State Department of Public Service (“DPS”) and National Grid (as defined in the Agreement)**

Dear Ms. Viapiano and Mr. DeCicco:

The draft First Quarterly Report by the Monitor dated February 28, 2020 includes a Recommendation 2 regarding the establishment of a Chief Compliance Officer role, as well as a Recommendation 4 calling for the structuring and definition of the role to be conducted in consultation with DPS. Yesterday, March 4, 2020, National Grid produced a supplemental response to the Monitor’s Request 28 regarding the future appointment of a U.S. Chief Risk and Compliance Officer (the “US CRO/CCO”), including a “job profile” and a statement that National Grid is “in the process of interviewing candidates” and “finalizing the dotted line reporting structure.” While the prompt pursuit of defining and filling such a role is encouraged, the material produced yesterday raises important questions such as: (a) whether the US CRO/CCO will be sufficiently independent from National Grid management; (b) whether the US CRO/CCO role will possess adequate personnel and other resources under its direct supervision, rather than be asked to leverage business personnel for compliance tasks; and (c) whether the US CRO/CCO duties will be defined by National Grid in a manner that is sufficiently distinct from the business goals of National Grid in order to act as a control on National Grid’s management and protect the best interests of National Grid’s customers in New York State.

As found in the draft First Quarterly Report, National Grid “lacks sufficient organizational clarity and definition in its institutionalized roles and responsibilities in order to anticipate the gap between demand and capacity for natural gas in the Service Territory and to prepare and maintain adequate contingency plans to avoid a moratorium.” National Grid should take care not to bypass careful consideration of the findings in the First Quarterly Report, and of significant questions such as those posed above, when defining and filling the role of US CRO/CCO. In that regard, Recommendation 4 of the First Quarterly Report calls for National Grid to consult with DPS as well as for use of outside management consultants. Further, the Protocol Agreement between National Grid and DPS sets out a process for National Grid to



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propose changes, if any, to the Monitor's recommendations. National Grid should not act in a unilateral manner that creates a risk of its defining and filling the role of US CRO/CCO in a manner not possessing critical independence from management and the allocation of sufficient resources to succeed.

Sincerely,



Adam H. Schuman

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