BEFORE THE
NEW YORK STATE
PUBLIC SERVICE COMMISSION

Verified Petition of National Grid Generation, LLC, for a Declaratory Ruling Regarding the Ownership and Operation of the West Babylon Generation Station	**Case No. 25-E-_______**

VERIFIED PETITION FOR A DECLARATORY RULING REGARDING THE OWNERSHIP AND OPERATION OF THE WEST BABYLON GENERATION STATION

Pursuant to Part 8 of the Rules and Regulations of the New York State Public Service Commission ("Commission"), 16 NYCRR Part 8, National Grid Generation, LLC[1] ("National Grid Generation"), a wholly-owned subsidiary of National Grid USA ("National Grid"), hereby submits this Verified Petition for a declaratory ruling that National Grid Generation's ownership and operation of the West Babylon generation station is consistent with the Commission's Vertical Market Power ("VMP") Policy Statement.[2] The West Babylon generation station is an approximately 52 megawatt ("MW") gas turbine generation facility located in West Babylon, Suffolk County, New York (the "West Babylon Station" or the "Facility") and will participate in

[1] National Grid Generation, formerly MarketSpan Generation LLC, is lightly regulated by the Commission. *See* Case No. 98-M-0074, *Petition of Long Island Lighting Company for Approval to: (a) under Section 70 of the Public Service Law to transfer certain assets from LILCO to newly formed subsidiaries of a new holding company; (b) for the subsidiaries receiving the assets to assume certain liabilities associated with those transferred assets; and (c) under PSL Section 69 for the issuance of promissory notes by those same subsidiaries*, "Order Approving Asset Transfers, Assumption of Liabilities And Issuance of Promissory Notes," (issued May 1, 1998) at 6-7 (according lightened regulation to National Grid Generation).

[2] Case 96-E-0900, *et al. - In the Matter of Orange & Rockland Utilities, Inc.'s Plans for Electric Rate Restructuring Pursuant to Opinion 96-12 et al.*, "Statement of Policy Regarding Vertical Market Power" (issued July 17, 1998) ("VMP Policy Statement"). The establishment of the VMP Policy Statement was not a "rule" subject to the notice and comment requirements of New York's State Administrative Procedure Act. Case 96-E-0900, *supra*, at 7. Accordingly, the Commission is not required to comply with the notice and comment requirements of State Administrative Procedure Act in order to clarify or modify that Policy Statement.

the wholesale electric markets regulated by the Federal Energy Regulatory Commission ("FERC").[3] In addition, National Grid Generation requests that the Commission confirm that its ownership and operation of the West Babylon Station is not precluded by the Commission's order dated September 17, 2007 in Case 06-M-0878[4] or, alternatively, that the Commission waives the requirements of the KeySpan Merger Order to permit National Grid Generation to continue to own and operate the Facility.

BACKGROUND

I. CORRESPONDENCE AND COMMUNICATIONS

All communications and correspondence with respect to this Verified Petition should be addressed to the following:

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[3] National Grid Generation will be seeking Market Based Rate authority from FERC in the near future.

[4] Case 06-M-0878, *Joint Petition of National Grid PLC and KeySpan Corporation for Approval of Stock Acquisition and other Regulatory Authorizations*, Order Authorizing Acquisition Subject To Conditions And Making Some Revenue Requirement Determinations For KeySpan Energy Delivery New York And KeySpan Energy Delivery Long Island, at 64 (issued September 17, 2007) (the "KeySpan Merger Order").

II. DESCRIPTION OF PETITIONER

National Grid USA. National Grid USA is a wholly-owned, indirect subsidiary of National Grid plc - a multi-national electric and gas utility company headquartered in London, England. National Grid USA's principal activities are in the Northeastern United States. National Grid's indirect subsidiaries, Niagara Mohawk Power Corporation d/b/a National Grid ("Niagara Mohawk"), The Brooklyn Union Gas Company d/b/a National Grid NY, and KeySpan Gas East Corporation d/b/a National Grid, provide natural gas distribution service in New York State, while Niagara Mohawk also provides wholesale and retail electric sales and delivery services in New York State. All of the transmission facilities owned and operated by affiliates of National Grid Generation in New York State are under the operational control of the New York Independent System Operator, Inc. ("NYISO"), and none of these facilities are located in NYISO Zone K which includes Long Island.

National Grid Generation, LLC. National Grid Generation, a wholly-owned subsidiary of National Grid USA ("National Grid"), is the successor to Long Island Lighting Company ("LILCO") with regard to certain electric generating assets on Long Island as a result of the 1998 merger transaction among KeySpan Corporation, LILCO, and the Long Island Power Authority ("LIPA"). On May 28, 1998, National Grid Generation (formerly known as MarketSpan LLC and KeySpan Generation LLC) acquired LILCO's non-nuclear generation assets.

National Grid Generation currently owns and operates 50 electric generation units with approximately 3,800 MW of electric generation capacity on Long Island, including the West Babylon Station. Together with its wholly-owned subsidiaries, National Grid Glenwood Energy Center LLC and National Grid Port Jefferson Energy Center LLC, National Grid Generation currently sells capacity, energy, and ancillary services to LIPA pursuant to long-term power purchase agreements ("PPA"). The West Babylon Station is currently subject to an Amended and

Restated Power Supply Agreement, dated October 10, 2012, between National Grid Generation and LIPA that expires April 30, 2028.

III. NATIONAL GRID GENERATION'S OWNERSHIP AND OPERATION OF THE WEST BABYLON STATION IS CONSISTENT WITH THE VMP POLICY STATEMENT

The VMP Policy Statement identifies, by example, two types of VMP concerns that could potentially arise as a result of an affiliation between a vertically-integrated transmission and distribution owner and a generation owner. First, the VMP Policy Statement posited that a transmission and distribution owner may have an incentive to interfere with the entry of new generation that would compete with its affiliated generation.[5] To that end, the VMP Policy Statement hypothesized that a transmission and distribution owner may attempt to delay the interconnection process or impose unreasonable interconnection requirements on an unaffiliated generator.[6]

Second, the VMP Policy Statement posited that a transmission and distribution owner's affiliation with generation on the high-price side of a constrained interface could provide an incentive to take steps to maintain or exacerbate the constraint.[7] In particular, the VMP Policy Statement suggested that a transmission and distribution owner could refuse to construct, or delay construction of new transmission facilities so as to maintain high prices on the high-price side of the constraint where its affiliated generation is located. The VMP Policy Statement further suggested that a transmission owner may have an incentive to operate its transmission facilities in a manner that increases the frequency of constrained conditions.[8]

[5] VMP Policy Statement, Appendix I, at 1.
[6] *Id*.
[7] *Id*.
[8] *Id*.

Thus, the VMP Policy Statement established a rebuttable presumption that VMP exists when a transmission and distribution company owns generation through an affiliate. However, the Commission held that the presumption may be rebutted upon a demonstration that: (1) VMP cannot be exercised or can be reasonably mitigated; or (2) alternatively, the transaction results in substantial benefits to captive retail customers.[9] Possible means of mitigating VMP set forth in the VMP Policy Statement include: (i) limitation on the degree of control over the constraining transmission interface held by the T&D utility;[10] (ii) a pledge by the transmission and distribution utility to pursue transmission projects recommended by the Commission or by the NYISO, together with a proposal that would neutralize profit maximizing incentives on generation that is within the market power control area pending the completion of all reasonable efforts by the T&D company to complete recommended transmission projects; and (iii) an agreement by the T&D company to participate in a binding arbitration in the event of a dispute over a new generator's interconnection requirements in the T&D utility's territory.[11]

A. National Grid Generation's Ownership and Operation of the West Babylon Station Will Not Create Either Market Power or an Incentive to Exercise it

As stated above, the West Babylon Station is an approximately 52 MW generation facility located on Long Island (NYISO Zone K) – an area where no affiliate of National Grid Generation owns or operates transmission or distribution facilities. As set forth below, consistent with Commission precedent, National Grid Generation's operation of the West Babylon Station in the wholesale electric market will not create any meaningful risk of market power.

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[9] VMP Policy Statement, Appendix I at 2.
[10] As set forth below, transmission planning and operations is now the responsibility of the NYISO, eliminating the ability of transmission owners to manipulate these two processes to their advantage. For example, any operations requiring outages such as equipment maintenance or vegetation management must be fully coordinated with the NYISO in accordance with the NYISO Operating Agreement.
[11] VMP Policy Statement, Appendix I at 2.

First, the size of the Facility prevents any significant threat of market power. In fact, the Commission has held that the addition of such a limited amount of generation to the electric market does not result in the "economic harms the VMP Policy was primarily directed against" and "could not give rise to market power."[12]

Moreover, similar to a renewable energy project, the West Babylon Station is an intermittent low capacity factor facility. In the last five years, the facility has operated during Summer peak periods an average of 13 hours – with 1.5 hours of operation in 2023 and 2024.[13] As such, the capacity factor of the facility is less than 1.0%.[14] In Case 18-E-0765, the Commission recognized that owners of low capacity factor facilities have more limited opportunities to exercise market power than high capacity factor plants. In that case, the Commission stated that approximately 1,300 MW of renewable generation owned by affiliates of a transmission owning entity, NextEra Energy Transmission New York, Inc. ("NEETNY"), represented "a minimal amount of the total generation in New York and is intermittent" and was a factor that "is instructive in gauging the magnitude of the risk and in evaluating appropriate mitigation and benefits…"[15] The Commission held that:

> the existing and proposed generating facilities of NEETNY's affiliates are all renewable and energy storage facilities with low capacity factors. While

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[12] *See* Case 05-E-1423, *Central Hudson Enterprises Corporation, Petition for a Declaratory Ruling Regarding Approval of the Indirect Disposition of Majority Ownership Interests in Lyonsdale Biomass LLC*, Declaratory Ruling on Acquisition of Ownership Interests in a Qualifying Facility (issued January 20, 2006); *see also* Case 10-E-0497, *Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., Consolidated Edison Solutions, Inc. and Consolidated Edison Development, Inc. - Joint Petition Regarding the Development of Renewable Energy Projects owned by the CEI Affiliates*, Declaratory Ruling on the Development of Renewable Generation Facilities and Order Establishing Filing Requirements (issued February 23, 2011) ("CEI Affiliates Order") at 8.

[13] The hours of operation since 2020 are as follows: 2020 – 45 hours; 2021 – 18 hours; 2022 – 1 hour; 2023 - 1 hour; 2024 – 0.5 hours; and 2025 – 0 hours.

[14] Moreover, the emissions limits for the West Babylon Station set forth in its State Facility Permit limit the operation of the Facility to approximately 315 hours of operation per year. Thus, effectively caps any potential market impact of the Facility and prevents potential incremental emissions.

[15] Case 18-E-0765, *Petition of NextEra Energy Transmission New York, Inc. for an Order Granting Certificate of Public Convenience and Necessity Pursuant to Section 68 of the Public Service Law*, Order Granting Certificate of Public Convenience and Necessity" (issued February 11, 2021) at 21-22 ("NEETNY Order").

> not eliminating the ability of NEETNY to coordinate unplanned outages to take advantage of VMP opportunities, it constrains its ability and opportunities to act, providing a form of mitigation that would not exist for a generator with a high capacity factor.[16]

Similarly, in the CEI Affiliates Order, the Commission held that affiliates of Con Edison and Orange & Rockland could construct up to 200 MW of renewable generation without creating any meaningful risk of VMP. Specifically, the Commission found that:

> [a] generation addition limited to the 200 MW size proposed is a small amount, in comparison to the amount of energy delivered in the Con Ed/O&R service territories, especially since the renewable generators comprising the addition tend to have low capacity factors. As a result, they generate comparatively low amounts of energy annually, in kWh, per each kW of capacity. Moreover, the amount earned from selling the generation the CEI Affiliates' renewable facilities will produce has a minimal impact on the economic viability of each project. Consequently, there is little incentive for the utility parents to attempt to manipulate the operation of their monopoly transmission and distribution systems in pursuit of higher prices for that generation. As a result, the economic harms the VMP Policy was primarily directed against are not present in a meaningful way here.[17]

The size of the West Babylon Station is approximately 4 percent of the renewable energy capacity authorized in the NEETNY Order and approximately 25% of the amount in the CEI Affiliates Order. Although not a renewable resource, as with the facilities in both the NEETNY Order and the CEI Affiliates Order, the extremely low capacity of the West Babylon Station ensures that the level of wholesale market prices for electricity supplied from the Facility will have no material impact on the market or the economic viability of the Facility.

A production cost simulation performed by the Company reinforces the conclusion that ownership and operation of the West Babylon Station by National Grid Generation in the wholesale electric market will not create either meaningful risk of market power or the incentive

[16] *Id*. at 23.
[17] CEI Affiliates Order at 8.

to exercise market power. A production cost analysis using the GE Power Systems Multi-Area Production Cost Simulation ("MAPS") was performed to quantify the impact that National Grid Generation's transmission and distribution owning affiliates may have on the locational marginal prices ("LMP") in NYISO Zone K and on the energy market revenue that the Facility may earn over a 20-year period from 2024-2044. The MAPS study demonstrates a negligible impact on affected generation nodes. Specifically, the overall impact of transmission outages on the LMPs in NYISO Zone K ranged from -0.35% to 0.22%. Indeed, two of three potential outages analyzed resulting in decreases to market prices. Similarly, the percentage change in energy market revenue also produced negative revenue impacts ranging from -1.61% to -0.18%.

Moreover, no affiliate of National Grid Generation currently operates any transmission facilities in Zone K – where the Facility is located. Moreover, the transmission facilities in New York State that are owned by an affiliate are under the operational control of the NYISO. As a result, as set forth more fully below, National Grid Generation does not possess the ability to use its affiliates' ownership of transmission to engage in market power to favor the Facility or to hinder competing energy suppliers.

B. Substantial Safeguards Exist to Mitigate Any Potential Market Power

As set forth above, the operation of the West Babylon Station in wholesale electric markets by National Grid Generation will not result in any meaningful risk of VMP nor will National Grid Generation or its affiliates have any rational basis for attempting to exert market power. The overall impact of the Facility on potential energy revenues as estimated by the GE MAPS analysis is negative. Thus, it is simply not credible that this potential impact would have any measurable impact on the wholesale electric market or National Grid Generation's business incentives. In addition to the lack of market power, substantial safeguards exist to further mitigate any potential exercise of market power. The safeguards include: (i) independent operational control of transmission facilities; (ii) FERC and Commission oversight; and, (iii) adherence to Codes of Conduct. Moreover, as discussed below, as the Commission has recognized, the NYISO and FERC have established responsibilities for monitoring market behavior through both internal and external entities (e.g., Market Mitigation and Analysis Department and the NYISO Market Monitoring Unit). The FERC also has established an Office of Enforcement encompassing the following four divisions: Division of Investigations, Division of Audits and Accounting, Division of Analytics and Surveillance, and Division of Energy Market Oversight. The FERC Office of Enforcement continues to stringently oversee transmission and wholesale energy markets with a particular focus on matters involving: (i) fraud and market manipulation; (ii) violations of reliability standards; (iii) anticompetitive conduct; and, (iv) conduct that threatens the transparency of regulated markets.[18] Moreover, in accordance with section 35.37(c)(5) of the FERC's regulations, FERC-approved market monitoring and mitigation will address any potential horizontal market power concerns.[19] As a NYISO market participant, National Grid Generation will participate in the energy, capacity, and ancillary services markets administered by NYISO, and will be subject to NYISO market monitoring and mitigation. FERC has held that RTO/ISO monitoring and mitigation also addresses market power concerns within submarkets of the RTO/ISO, and has held specifically that NYISO monitoring and mitigation address potential market power concerns in NYISO's Zone K submarket.

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[18] *See* FERC 2024 Report on Enforcement at 4.

[19] *See* 18 C.F.R. § 35.37(c)(4), as amended by Order No. 861. In Order No. 861, FERC eliminated the obligation for sellers to submit indicative screens in order to obtain or retain market-based rate authority for the sale of energy, capacity, and ancillary services within the markets administered by a regional transmission organization ("RTO") or independent system operator ("ISO") for "RTO/ISO-administered energy, ancillary services, and capacity markets that are subject to Commission-approved RTO/ISO monitoring and mitigation." Refinements to Horizontal Market Power Analysis for Sellers in Certain Regional Transmission Organizations & Indep. Sys. Operator Mkts, Order No. 861, 168 FERC 61,040, at P 84 (2019); Order on Reh'g and Clarification, Order No. 861-A, 170 FERC 61,106 (2020).

(i) Independent Operational Control

In the VMP Policy Statement, the Commission held that limiting the degree of control over the constraining transmission interface by the Project owners would demonstrate a "means of mitigating market power."[20] Consistent with the VMP Policy Statement, transmission planning and operations have been taken out of the control of transmission owners and is now the responsibility of the NYISO, eliminating the ability of transmission owners to manipulate these two processes to their advantage. As a result, National Grid has no functional control over the operation of its transmission lines and is obligated to operate and maintain the line in accordance with good utility practice. Specifically, any operations requiring outages such as equipment maintenance or vegetation management must be fully coordinated with the NYISO in accordance with the NYISO Operating Agreement. As the Commission recognized in the New York Transco Order, the potential to exert market power is sufficiently reduced where "transmission facilities [are] placed under the functional and operational control of the NYISO and subject to the NYISO's [FERC approved] tariffs."[21]

In addition, transmission owners no longer have the ability to prevent the entry of new generators for the financial benefit of their own generation resources. Since adoption of the VMP Policy Statement over two decades ago, new entry of both transmission and generation has become open to competition and governed by the NYISO Interconnection Rules (NYISO OATT Attachments P and X). In Order No. 845, FERC required all transmission providers to post study

[20] *See* VMP Policy Statement, Appendix I at 2.

[21] Case 15-E-0743, *Petition of New York Transco LLC for an Order Providing for Lightened Regulation,* Order Providing for Lightened Rate Making Regulation and Approving Financing (issued April 21, 2016) at 12. In reaching its conclusion, the Commission recognized that "FERC requires all transmission to be provided under open access non-discriminatory tariffs" and that transmission owners must "turn over operational control of the transmission facilities to NYISO and transmission service over [their] facilities will be provided by the NYISO under the NYISO's open access non-discriminatory tariff." *Id*. at 13.

processing timeline metrics on OASIS to document compliance with the "reasonable efforts" obligation with respect to completing Feasibility, System Impact, and Facilities Studies during the periods prescribed in the tariff.[22] The NYISO filed conforming revisions to Section 30.3.4 of its tariff requiring the posting of study metrics pursuant to Order No. 845 on May 22, 2019 in Docket No. ER19-1949.

Similarly, with respect to small generating facilities, the Commission has established Standardized Interconnection Requirements ("SIR") governing the interconnection of small generating facilities in a manner that further mitigates any ability of transmission-owning affiliates to engage in anti-competitive discrimination.[23] In addition, the Small Generation Interconnection Procedures of the NYISO OATT are also available to small generating facilities that may not qualify for the SIR.

(ii) Regulatory Oversight

The potential for market power associated with the West Babylon Station is further mitigated by the existence of substantial regulatory oversight by the NYISO, FERC, and the Commission – including the imposition of substantial penalties for non-compliance. As the Commission has held when it has considered VMP issues in past transmission certification cases, the availability and importance of FERC oversight and FERC-approved mitigation measures sufficiently mitigate potential market power concerns. For example, in the New York Transco Order, the Commission held that the potential to exert market power is reduced where transmission facilities are "placed under the functional and operational control of the NYISO and subject to the

[22] *See* Order No. 845, 163 FERC ¶ 61,043 at P 305 (2018).

[23] *New York State Standardized Interconnection Requirements and Application Process For New Distributed Generators and Energy Storage Systems 5 MW or Less Connected in Parallel with Utility Distribution Systems*: https://dps.ny.gov/system/files/documents/2024/02/sir-effective-february-1-2024.pdf

NYISO's tariffs, including, but not limited to, market power monitoring and mitigation measures, and provisions prohibiting anticompetitive behavior."[24] The Commission held that given that power flows over "transmission will be administered by the NYISO subject to FERC-approved tariffs, <u>the potential to exercise market power or harm the interests of captive ratepayers in New York State is mitigated</u>."[25]

As the Commission recognized, the NYISO and FERC have established responsibilities for monitoring market behavior through both internal and external entities. In addition to an internal Market Mitigation and Analysis Department, the NYISO has established a Market Monitoring Unit which is an independent third-party entity responsible for, among other things, reviewing the performance of the wholesale markets and identifying and notifying the FERC of instances in which a market participant's behavior may require investigation, including, but not limited to, suspected market power violations.[26]

The NYISO has developed robust and comprehensive rules to minimize interference with open and competitive markets and to sanction behavior intended to manipulate market outcomes. These rules address the physical and economic withholding of generation, physical withholding of transmission, and specify financial penalties for anticompetitive conduct.[27]

The Commission also possesses potential oversight to further mitigate the potential exercise of market power. National Grid Generation is subject to a lightened regulatory regime. Significantly, pursuant to Section 25 of the Public Service Law, the Commission has the power to impose daily penalties of between $100,000 to $250,000 where a public utility knowingly fails or

[24] New York Transco Order at 12.
[25] *Id*. at 12-13 (emphasis added).
[26] NYISO Market Administration and Control Area Services Tariff, Attachment O and Attachment FF.
[27] NYISO Market Administration and Control Area Services Tariff, Attachment H.

neglects to obey or comply with a provision of the Public Service Law or Commission Order. Indeed, these penalties establish a substantial disincentive to any exercise of VMP.

(iii) Code of Conduct

The potential for National Grid Generation to exercise market power is further mitigated through compliance with National Grid's Code of Conduct Governing Affiliate Interactions. National Grid Generation understands and acknowledges that its transmission-owning affiliates will remain bound by the standards of the Commission's own competitive conduct governing the relationship between their regulated and unregulated businesses.[28] As the Commission has held, codes of conduct further mitigate concerns about that exercise of market power. In Case 18-E-0765, the Commission held:

> We agree that the codes of conduct that NEETNY would adhere to would somewhat mitigate our concerns about its exercise of market power. NEETNY will be subject to codes of conduct of FERC, NextEra and NEETNY, that would govern the behavior of NEETNY employees and further reduce the potential abuse of vertical market power. NEETNY would require extensive employee training, establish practices regarding affiliate transactions, and require adherence to an established process if a competitor alleges NEETNY has violated its code. NEETNY would also file annual reports with the Commission summarizing any transactions between NEETNY and its affiliates.[29]

C. Ownership and Operation of the West Babylon Station has the Potential to Provide Substantial Benefits to New York Electric Consumers.

In its 2024 Reliability Needs Assessment, the NYISO found that the retirement of the largest gas turbine and/or fossil fuel-fired, or steam-turbine plant in the Lower Hudson Valley, New York City, and Long Island would result in transmission security deficiencies, with New

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[28] *See e.g.*, Case 15-M-0501, In the Matter of a Review of Utility Codes of Conduct as Impacted by Reforming the Energy Vision, Compliance Filing of Niagara Mohawk Power Corporation d/b/a National Grid, the Brooklyn Union Gas Company d/b/a National Grid NY, and KeySpan Gas East Corporation d/b/a National Grid Regarding Revised Codes of Conduct (filed January 3, 2017).

[29] NEETNY Order at 28.

York City and Long Island being deficient starting in 2025.[30] In particular, compliance with the New York State Department of Environmental Conservation ("DEC") Peaker Rule,[31] is projected to result in 1,600 MW of peaker generation capability, located primarily in the lower Hudson Valley, New York City, and Long Island, being unavailable starting in the summer of 2025.[32]As such, the operation of the West Babylon Station, even at its current low capacity factor, has the potential to provide increased reliability to the electrical grid in Zone K.

IV. THE COMMISSION SHOULD CONFIRM THAT NATIONAL GRID GENERATION'S OWNERSHIP AND OPERATION OF THE WEST BABYLON STATION IN THE WHOLESALE ELECTRIC MARKET WILL NOT VIOLATE THE REQUIREMENTS OF THE KEYSPAN MERGER ORDER OR GRANT A LIMITED WAIVER OF THOSE REQUIREMENTS

Pursuant to the KeySpan Merger Order, the Commission restricted National Grid and its affiliates from constructing, owning, and operating new generating facilities in New York State unless specifically requested by the LIPA or the New York Power Authority ("NYPA") under a long-term contract, or unless such ownership or development occurs as a result of repowering its existing generation facilities.[33] The KeySpan Merger Order also adopted a requirement that, if at any time any then-current generation facilities under long-term contract to NYPA and LIPA will no longer be under such contract (e.g., due to contract expiration), National Grid must prepare and file with the Commission an analysis demonstrating how its continued ownership of such generation facilities conforms or does not conform with the VMP Policy Statement and, if necessary, identifying conditions under which such ownership could conform.[34]

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[30] NYISO 2024 Reliability Needs Assessment at 13. https://www.nyiso.com/documents/20142/2248793/2024-RNA-Report.pdf
[31] Subpart 227-3 of Title 6 of the New York Codes, Rules and Regulations
[32] NYISO 2024 Reliability Needs Assessment at 25. The Facility will be in compliance with the DEC Peaker Rule.
[33] KeySpan Merger Order, at 142; see also Case 06-M-0878, *supra*, Merger & Gas Revenue Requirement Joint Proposal (filed July 6, 2007), at 13 (Merger JP).
[34] *Id*.; *see also* Case 21-E-0303, *Petition of National Grid PLC and NGV Ventures Emerald, LLC for a Declaratory*

For the reasons set forth above, National Grid Generation's ownership and operation of the West Babylon Station in wholesale electric markets will not violate the VMP Policy Statement. Thus, in order to retain the potential benefits described above, the Commission should hold that such ownership and operation is consistent with the KeySpan Merger Order and Joint Proposal.

CONCLUSION

WHEREFORE, for the reasons stated above, National Grid Generation respectfully requests that the Commission declare that National Grid Generation's ownership and operation of West Babylon Station and its continued participation in wholesale electric markets regulated by the FERC is: (i) consistent with the Commission's Vertical Market Power Policy Statement; and (ii) consistent with the requirements of the KeySpan Merger Order. In the alternative, National Grid Generation requests that the Commission grant a limited waiver of the requirements of the KeySpan Merger Order to permit the required ownership and operation of the West Babylon Station in the wholesale electric markets.

Respectfully submitted,

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Dated: March 26, 2025

Ruling Regarding Ownership of a 50 Percent Upstream Interest in the Calverton Solar Project, Declaratory Ruling on Generation Ownership and Making Other Findings, (issued September 10, 2021) at 5.

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Verified Petition of National Grid Generation, LLC, for a Declaratory Ruling Regarding the Ownership and Operation of the West Babylon Generation Station

Case No. 25-E-_______

VERIFICATION

STATE OF NEW YORK)
) ss:
COUNTY OF NASSAU)

I, James Flannery, being duly sworn, depose and state as follows:

1. I am Vice President for National Grid Generation LLC.

2. I have read the foregoing Petition and herby verify that the statements therein contained are true and accurate to the best of my knowledge and belief.

James P. Flannery
James Flannery
Vice President
National Grid Generation LLC

Sworn to and subscribed before me this
25th day of March, 2025

Eileen P. Coleman
Notary Public

EILEEN P. COLEMAN
NOTARY PUBLIC - STATE OF NEW YORK
NO. 01CO4815634
QUALIFIED IN NASSAU COUNTY
COMMISSION EXPIRES JUNE 30, 2026