

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

OFFICE OF ENERGY PROJECTS

**In Reply Refer To:**  
National Grid LNG LLC  
Docket No. CP16-121-000

January 17, 2017

Susan Forcier, Esq.  
Rhode Island Department of Environmental Management  
235 Promenade Street  
Providence, RI 02908

**Re: October 21, 2016 Letter from the Department of Environmental Management  
to National Grid LNG LLC**

Dear Ms. Forcier:

On November 16, 2016, National Grid LNG LLC (National Grid) filed Supplemental Information Related to Resource Report 7 and the Soil Management Plan for the proposed Fields Point Liquefaction Project. Attachment B to this filing includes your October 21, 2016 letter responding to a memorandum prepared by Robin L. Main on behalf of National Grid. In this letter, you state that the Rhode Island Department of Environmental Management (RIDEM) agrees with National Grid's position that federal law preempts certain statutes, regulations, and processes under RIDEM's purview related to this project. Specifically, National Grid states that the Rhode Island Industrial Property Remediation and Reuse Act (IPRRA),<sup>1</sup> the Remediation Regulations promulgated under the IPRRA, and the Public Involvement Plan (PIP) process are preempted by the FERC regulatory scheme.

Staff believes that it is not clear whether the subject Rhode Island regulations and processes are preempted in this proceeding. State regulation is preempted by the Natural Gas Act when it interferes or conflicts with FERC's regulatory authority over the transportation of natural gas or would unduly delay the construction and operation of

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<sup>1</sup> R.I. Gen. Laws § 23-19.14-1 *et seq.*

facilities approved by the Commission.<sup>2</sup> However, the Commission encourages applicants to cooperate with state and local agencies regarding the location of pipeline facilities, environmental mitigation measures, and construction procedures.<sup>3</sup> Given RIDEM's status as a cooperating agency, and its special expertise and experience at the project site, particularly with respect to the collection of information and the development of remediation plans for sites like the one at issue, RIDEM's active participation in this proceeding would assist the Commission in resolving the issues in this proceeding and ensuring that the public interest is protected.<sup>4</sup> In addition, Rhode Island has authority delegated to it under federal statutes including the Clean Water Act, the Coastal Zone Management Act, and the Clean Air Act that may give the state both the ability and the obligation to deal with the environmental issues in this proceeding.

Commission staff would like the opportunity to discuss these issues with RIDEM and other appropriate state agencies. Please contact Ken Warn at 202-502-6859 or Sandra Delude at 202-502-8583 at your earliest convenience to set up a meeting.

Sincerely,

Ann F. Miles  
Director  
Office of Energy Projects

cc: All Parties  
Public File – Docket No. CP16-121-000

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<sup>2</sup> *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293, 310 (1988) and *Dominion Transmission, Inc. v. Summers*, 723 F.3d 238, 245 (D.C. Cir. 2013).

<sup>3</sup> *See, e.g., Algonquin Gas Transmission, LLC*, 154 FERC ¶ 61,048, at P 33 (2016).

<sup>4</sup> Should concerns over potential regulatory conflicts arise at any point throughout this proceeding, they can be addressed at that time.