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IN THE MATTER OF NATIONAL GRID (Respondent)

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SUBSTANTIAL BASIS INVESTIGATION REPORT  
AND SETTLEMENT AGREEMENT

Case No. 11-21

WHEREAS, the Public Integrity Reform Act of 2011 ("PIRA") created the Joint Commission on Public Ethics ("Commission") to replace the Commission on Public Integrity ("CPI") and expressly provided that the Commission shall continue the authority of CPI;

WHEREAS, Part A, Section 16, of the Public Integrity Reform Act of 2011 provides in relevant part: "any business or other matter undertaken or commenced by the state commission on Public Integrity or the legislative ethics commission pertaining to or connected with the functions, powers, obligations and duties hereby transferred and assigned to the joint commission on public ethics, and pending on the effective date of this act may be conducted and completed by the joint commission on public ethics in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the former state commission on public integrity or the legislative ethics commission";

WHEREAS, this Settlement Agreement ("Agreement") is entered into by and between the Commission and National Grid's operating companies in New York State, the Brooklyn Union Gas Company d/b/a National Grid NY ("KEDNY"), KeySpan Gas East Corporation d/b/a National Grid ("KEDLI") and Niagara Mohawk Power Corporation d/b/a National Grid ("NMPC") (collectively, the "Respondent") and Respondent has agreed to proceed under Executive Law §94 as amended;

WHEREAS, the Commission has authority pursuant to Executive Law §94 to conduct an investigation to determine whether a substantial basis exists to conclude that a violation of the Lobbying Act has occurred, to issue a report of its finding of a substantial basis to conclude that a violation has occurred, and to impose penalties for such violation as provided for in the Legislative Law;

WHEREAS, Respondent is a registered lobbyist and a client of a registered lobbyist and is therefore subject to the Legislative Law;

WHEREAS, Respondent self-reported to CPI, by letter dated January 10, 2011 and has submitted additional information documenting evidence (which letter and information is incorporated by reference herein) that during the period between 2002 and 2010 Respondent employees provided items of value to employees of the Department of Public Service ("DPS"), the administrative arm of the Public Service Commission ("PSC") (hereinafter referred to as "the Conduct");

WHEREAS, on March 29, 2011 a letter was sent from CPI to Respondent alleging possible violations of Article 1-A of the Legislative Law (the "Lobbying Act"), which afforded Respondent 15 days in which to respond to the allegations in writing;

WHEREAS, on May 7, 2012, Respondent entered into a settlement agreement with the DPS relating to the Conduct, pursuant to which Respondent agreed to defer a total of \$1,667,000 at shareholders' expense for the benefit of Respondent's utility customers in New York State;

WHEREAS, in lieu of appearing in an adjudicatory proceeding that could result in the assessment of a civil penalty against Respondent, the parties to this Agreement have agreed to resolve their dispute in a manner that avoids further administrative proceedings;

NOW THEREFORE, in consideration of the fact that Respondent self-reported to multiple state agencies, including CPI, and entered into a settlement agreement with DPS relating to the Conduct, and in consideration of the mutual covenants made herein, as the final settlement of the matter before the Commission relating to the Conduct, the parties stipulate and agree as follows:

- I. Respondent stipulates that during the period between 2002 and 2010 employees of Respondent provided items of value, including rounds of golf and meals, to DPS employees who were public officials as currently defined in the Lobbying Act §1-c(1).
- II. Respondent acknowledges that Lobbying Act §1-m prohibits the offering or providing of gifts from an individual or entity required to be listed on a statement of registration (as defined in Lobbying Act §1-e) to a DPS employee and public official (as currently defined in the Lobbying Act §1-c(1)) unless under the circumstances it is unreasonable to infer the gift was intended to influence such official.
- III. Respondent agrees to pay the Commission the amount of \$25,000 dollars in settlement of said matter within 30 days of execution of this Agreement.
- IV. Respondent agrees to cooperate fully with any related investigation by the Commission, including but not limited to, producing any and all relevant documents and providing truthful testimony in any future proceedings related to this matter.
- V. Respondent implemented an ethics training course and agrees to continue to provide such course, subject to the approval of the Commission, on an annual basis to its employees for 4 years from the date of this agreement. This ethics training shall be in addition to the required ethics training pursuant to §1-d(h) of the Lobbying Act.
- VI. Respondent agrees for 4 years from the date of this agreement, to provide the Commission with semi-annual progress reports of its ethics training course, any possible violations of the Lobbying Act or Public Officers Law relating to conduct by Respondent or its employees, and the findings of any integrity or compliance audit of Respondent.
- VII. If Respondent fails to perform any of the conditions set forth in Paragraphs III, IV, V, and VI of this Agreement, Respondent may be held in breach of this Agreement by the Commission, and it shall be in the Commission's sole discretion to deem the Agreement null and void in its entirety, issue a new Substantial Basis Investigation

Report, which may include additional charges against Respondent, and proceed with an enforcement action. As to any new Substantial Basis Investigation Report or enforcement action by the Commission pursuant to this paragraph: (1) Respondent waives any claim that such action is time-barred by a statute of limitations, or any other time-related defenses, provided that such action would not have been time-barred if brought on or before the date of this Agreement; and (2) Respondent expressly acknowledges and agrees that the Commission may use any statements herein, or any other statements, documents or other materials produced or provided by Respondent prior to or after the date of this Agreement, including, but not limited to, any statements, documents, or other materials, if any, provided for the purposes of settlement negotiations or in submissions by Respondent or by counsel on behalf of Respondent, in any enforcement proceeding against Respondent relating to the allegations herein.

- VIII. Respondent shall, upon request by the Commission, provide all documentation and information reasonably necessary for the Commission to verify compliance with this Agreement.
- IX. The Commission has agreed to the terms of this Agreement based on, among other things, the representations made to the Commission by Respondent and its counsel. To the extent that representations made by Respondent or its counsel are later found to be materially incomplete or inaccurate by the Commission, Respondent shall be in breach of this Agreement under Paragraph VII herein.
- X. Notwithstanding the provisions of this Agreement, Respondent understands and acknowledges that the Commission may investigate other undisclosed knowing and wilful violations of the Lobbying Act, if any, by Respondent and take any appropriate action.
- XI. Respondent hereby waives any rights, as provided in §1-o(c)(iii) of the Lobbying Act, to relief from the assessment of a penalty and may not assert such right in relation to the Conduct in future enforcement proceeding by the Commission.
- XII. Respondent waives any statute of limitations or other time-related defenses applicable to the investigation that is the subject of the Agreement and any claims arising from or relating thereto, as well as any right to appeal or challenge the determination or conduct of the Commission relating to this matter in an article 78 proceeding or by any other means.
- XIII. This Agreement and any dispute related thereto shall be governed by the laws of the State of New York without regard to any conflicts of laws principles.
- XIV. Respondent consents to the jurisdiction of the Commission in any proceeding or action to enforce this Agreement.
- XV. It is understood that this Agreement is not confidential and will be made public within 45 days of its execution in accordance with Executive Law §§94(14) & (19).
- XVI. Respondent agrees not to take any action or to make, permit to be made, authorize, or agree to, any public statement denying, directly or indirectly, any finding in this Agreement or creating the impression that this Agreement is without factual basis.

Nothing in this paragraph affects Respondent's: (a) testimonial obligations; or (b) right to take legal or factual positions in defense of litigation or other legal proceedings to which the Commission is not a party. A violation of this Paragraph constitutes a breach of this Agreement by Respondent under Paragraph VII herein.

- XVII. This Agreement constitutes the entire agreement between the parties and supersedes any prior communication, understanding, or agreement, whether oral or written, concerning the subject matter of this Agreement. No representation, inducement, promise, understanding, condition or warranty not set forth in this Agreement has been relied upon by any party to this Agreement.
- XVIII. Any amendment or modification to this Agreement shall be in writing and signed by both parties.
- XIX. This Agreement shall become effective upon execution by the Commission or its designee.
- XX. In the event that one or more provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.
- XXI. By signing below, Respondent acknowledges reading this Agreement in its entirety, understanding all terms and conditions of this Agreement, and having done so, knowingly, voluntarily, and freely enters into this Agreement.

Dated:

  
New York State Monticello  
Joint Commission on Public Ethics

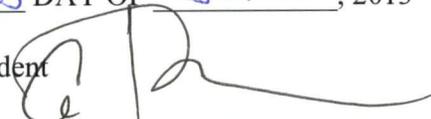
ACCEPTED AND AGREED TO  
THIS 25 DAY OF June, 2013

Respondent

By:

Name:

Title:

  
Catherine L. Wessler  
Deputy General Counsel

Approved: Daniel J. Horwitz  
Chair

Patrick J. Bulgaro  
Hon. Joseph Covello  
LaShann M. DeArcy  
Hon. Vincent A. Delorio  
Mitra Hormozi  
Marvin E. Jacob  
Seymour Knox, IV  
Hon. Mary Lou Rath  
David A. Renzi  
George H. Weissman  
Members

Absent: Gary J. Lavine  
Ellen Yaroshefsky  
Members