

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES**

Petition of NSTAR Electric Company d/b/a)
Eversource Energy, Massachusetts Electric)
Company and Nantucket Electric Company each) D.P.U. 24-XX
d/b/a National Grid, and Fitchburg Gas and)
Electric Light Company d/b/a Unitil for Approval)
of Settlement Agreement)

JOINT TESTIMONY OF

MONICA KACHRU, JAMES HOLODAK, Jr.

AND ROBERT S. FURINO

ON BEHALF OF

EVERSOURCE, NATIONAL GRID AND UNITIL

EXHIBIT JU-1

DATED: October 28, 2024

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**JOINT TESTIMONY OF MONICA KACHRU, JAMES HOLODAK, Jr.
AND ROBERT S. FURINO**

1 **I. INTRODUCTION**

2 *Monica Kachru*

3 **Q. Ms. Kachru, please state your full name and business address.**

4 A. My name is Monica Kachru. My business address is 247 Station Drive, Westwood,
5 Massachusetts 02090.

6 **Q. By whom are you employed and in what capacity?**

7 A. I am employed as the Director of Wholesale Power Contracting in the Energy Supply
8 Department at Eversource Energy Service Company (“ESC”), which provides services to
9 NSTAR Electric Company d/b/a Eversource Energy (hereinafter “Eversource”). I am
10 contributing to this joint testimony on behalf of Eversource.

11 **Q. Please describe your present responsibilities.**

12 A. As Director of Wholesale Power Contracting, I am responsible for procurement of all long-
13 term wholesale energy in compliance with state regulations, on behalf of customers served
14 by Eversource, along with other distribution affiliates in Connecticut, Massachusetts and
15 New Hampshire.

16 **Q. Please describe your education and professional background.**

17 A. I graduated from Boston University with a Master’s in Energy and Environmental Studies
18 and from MIT Sloan School of Management with a Master’s in Business Administration.

1 In 1996, I joined NEES (currently National Grid) as a Power Marketing Associate Analyst.
2 Following the divestiture of NEES, in 1997, I joined LaCapra Associates (currently
3 Daymark) as a consultant with a broad portfolio of responsibilities including managing
4 power supply for several electric cooperatives in Vermont. In 2001, I joined TransEnergie
5 US (marketing affiliate of Hydro Quebec) as a Senior Analyst managing economic
6 valuation and supporting regulatory filings for competitive transmission projects. In 2006,
7 I joined NSTAR and held various positions related to aspects of both energy supply and
8 demand including Manager of Energy Efficiency Program Valuation. In 2014, I left
9 Eversource to pursue a master's graduate degree in business. I rejoined Eversource in 2016
10 and have since held various positions including Director of Business Development and
11 Offshore Wind Execution. I have held my current role as a Director of Wholesale Power
12 Contracts since 2023.

13 **Q. Have you previously testified in proceedings before the Department or in other**
14 **jurisdictions?**

15 A. Yes, I have testified before the Department in D.P.U. 12-105, D.P.U. 12-110 and D.P.U.
16 12-111 proceedings regarding Eversource's Three-Year Energy Efficiency Plan.

17 **James Holodak, Jr.**

18 **Q. Mr. Holodak, please state your name and business address.**

19 A. My name is James Holodak, Jr. My business address is National Grid, 2 Hanson Place,
20 Brooklyn, NY 11217.

1 **Q. By whom are you employed and in what capacity?**

2 A. I am Vice President, Energy Supply for National Grid USA Service Company, Inc.
3 (“National Grid Service Company”) which provides services to Massachusetts Electric
4 Company and Nantucket Electric Company each d/b/a National Grid (“National Grid”). I
5 am contributing to this joint testimony on behalf of National Grid.

6 **Q. Please describe your present responsibilities.**

7 A. As Vice President of Energy Supply, I oversee all wholesale electric and gas supply
8 procurement, contracting and hedging activities for the state regulated subsidiaries of
9 National Grid USA in Massachusetts and New York.

10 **Q. Please describe your education and professional background.**

11 A. I hold both a Bachelor’s Degree in Electrical Engineering and an MBA in Finance from
12 Manhattan College. Effective April 2021, I was appointed Vice President of Energy
13 Supply. From April 2011 to March 2021, I was Vice President of Regulatory Strategy &
14 Integrated Analytics and then Vice President FERC & Wholesale Markets Strategy and
15 Regulation where I was responsible for federally regulated electric, transmission,
16 generation, and LNG for National Grid’s US operations. From August 2007 to March
17 2011, I was Director of Finance, Electric Distribution & Generation, where I was
18 responsible for budgeting, financial analysis and support, financial reporting and strategic
19 support for the Generation and Long Island Power Authority Finance segment of National
20 Grid USA’s Electric Distribution and Generation business functions. From September
21 2001 to August 2007, I was the Assistant Treasurer for the former KeySpan Company,

1 which was acquired by National Grid USA. From 1998 to 2001, I was Director of Financial
2 Planning and Analysis for KeySpan performing short-term and long-term financial
3 forecasting and strategy. Prior to that, I was a manager in Financial Planning, Corporate
4 Planning and M&A Economic Analysis, and held various engineering positions in Electric
5 Operations, Marketing, and Engineering and Construction in Long Island Lighting
6 Company, KeySpan's predecessor company.

7 **Q. Have you previously testified in proceedings before the Department of Public Utilities**
8 **(the "Department")?**

9 A. No, I have not testified in proceedings before the Department, however, I have testified in
10 proceedings at the Federal Energy Regulatory Commission ("FERC").

11 **Robert S. Furino**

12 **Q. Mr. Furino, please state your name and business address.**

13 A. My name is Robert S. Furino. My business address is 6 Liberty Lane, Hampton, New
14 Hampshire.

15 **Q. By whom are you employed and in what capacity?**

16 A. I am employed by Unitil Service Corp. ("Service Company") as Director, Clean Energy
17 Transition. The Service Company provides management and administrative services to
18 Fitchburg Gas and Electric Light Company d/b/a Unitil ("Unitil"). I am contributing to
19 this joint testimony on behalf of Unitil.

20 **Q. Please describe your present responsibilities.**

21 A. As Director, Clean Energy Transition for the Service Company, I am responsible for
22 supporting decarbonization strategy development, identifying technologies that support

1 clean energy and long-term renewable energy procurement for the company's regulated
2 distribution utilities.

3 **Q. Please describe your education and professional background.**

4 A. I received a Bachelor of Arts degree in Economics from the University of Maine in 1991
5 and completed coursework toward a Master of Arts degree also at the University of Maine.
6 I joined the Service Company in March 1994 as an Associated DSM Analyst in the
7 Regulatory Services Department and have worked in the Regulatory, Product
8 Development, Finance and Energy Contracts departments, while assuming positions of
9 increasing responsibility. As Director of Energy Contracts from 2008 to 2023, I was
10 responsible for Until's energy procurement and contracting strategies to ensure a reliable
11 and cost-effective natural gas and electric energy supply. I have been in my current
12 position since 2023.

13 **Q. Have you previously testified in proceedings before the Department?**

14 A. Yes, I testified in D.P.U. 18-66, D.P.U. 11-30 and D.P.U. 13-146 to obtain Department
15 approval of Until's long-term renewable contracts entered into pursuant to Section 83 of
16 the Green Communities Act. I have prepared or directed the preparation of Until's electric
17 Basic Service Request for Proposals Bid Evaluation Reports and related filings. I have
18 also testified before the Department regarding Until's Gas Forecast and Supply Plans and
19 other gas related matters. In addition, I have testified before both the New Hampshire
20 Public Utilities Commission and the Maine Public Utilities Commission on a range of
21 regulatory matters.

1 **II. PURPOSE OF TESTIMONY**

2 **Q. What is the purpose of your joint testimony?**

3 A. The purpose of our joint testimony is to support the Settlement Agreement discussed in
4 further detail below, and the related cost recovery associated with the Fourth Amendment
5 (“Fourth Amendment”) to the Transmission Service Agreements (“TSAs”) executed
6 between each of Eversource, National Grid, and Unitil (collectively, the “EDCs”) and
7 NECEC Transmission LLC (“NECEC LLC”)¹, originally reviewed as part of the
8 Department’s approval of Power Purchase Agreements (“PPAs”) between each of the
9 EDCs and H.Q. Energy Services (U.S.) Inc. (“HQUS”) in D.P.U. 18-64, D.P.U. 18-65, and
10 D.P.U. 18-66 (June 25, 2019).²

11 **Q. How is your testimony organized?**

12 A. Section III provides background information on the PPAs, the TSAs, and the three TSA
13 amendments that preceded the Fourth Amendment. Section IV describes the Fourth
14 Amendment and provides the context in which it was negotiated and executed. Section V
15 describes the Settlement Agreement executed by and among the EDCs, NECEC, the
16 Massachusetts Department of Energy Resources (“DOER”) and the Massachusetts Office
17 of the Attorney General (“AGO”) (collectively, the “Settling Parties”) relating to the
18 recovery of costs associated with the Fourth Amendment and related issues. Section VI

¹ The TSAs were originally between Central Maine Power Company (“CMP”) and each of the EDCs. However, CMP formed a special purpose entity, NECEC LLC, and CMP assigned all of its rights, title, interest and obligations in, to and under the TSAs to NECEC LLC. See EDCs’ Notice to Department Re: TSA Amendments (July 7, 2020). NECEC LLC is a wholly owned subsidiary of Avangrid Inc., and not a subsidiary of CMP. Id.

² The Department assigned D.P.U. 18-64 to Eversource’s Petition, D.P.U. 18-65 to National Grid’s Petition and D.P.U. 18-66 to Unitil’s Petition.

1 addresses the continued net benefits of the PPAs and TSAs, as amended by the Fourth
2 Amendment. Section VII addresses cost recovery and bill impacts.

3 **Q. Are you sponsoring any additional exhibits?**

4 A. Yes, we are sponsoring the following exhibits:

- 5 • Exhibit JU-2 – the Settlement Agreement, with Attachments
- 6 • Exhibit JU-3 – the Fourth Amendment
- 7 • Exhibit JU-4A – Bill Impacts (Eversource)
- 8 • Exhibit JU-4B – Bill Impacts (National Grid)
- 9 • Exhibit JU-4C – Bill Impacts (Unitil)
- 10 • Exhibit JU-5 – HQUS Written Consent

11 **III. BACKGROUND**

12 **A. Department Review of PPAs and TSAs**

13 **Q. Please briefly describe the procedural background relevant to the TSAs.**

14 A. On July 23, 2018, in D.P.U. 18-64 through D.P.U. 18-66, the EDCs each filed a Petition,
15 direct testimony and supporting exhibits and workpapers seeking Department approval of
16 their respective PPA with HQUS. The PPAs included energy and related capacity to deliver
17 hydropower into New England over new transmission infrastructure, referred to as the New
18 England Clean Energy Connect (“NECEC”) transmission line, in accordance with TSAs
19 between each EDC and NECEC LLC executed pursuant to the Green Communities Act,
20 St. 2008, c. 169, 83D (“Section 83D”).

21 On August 15, 2018, the Department held a joint public hearing and procedural conference
22 in D.P.U. 18-64/65/66. The AGO filed a Notice of Intervention in each proceeding pursuant

1 to G.L. c. 12, § 11E(a). In addition, the Department granted the respective petitions to
2 intervene in each proceeding filed by the DOER, Acadia Center, CMP, Champlain VT
3 LLC d/b/a TDI New England, Conservation Law Foundation, the Low-Income
4 Weatherization and Fuel Assistance Program Network, and NextEra Energy Resources,
5 LLC (“NextEra”). The Department also granted limited participant status in each
6 proceeding to Associated Industries of Massachusetts, Emera Inc., HQUS, New England
7 Power Generators Association, Inc., Northern Pass Transmission LLC, RENEW Northeast,
8 Inc., Sierra Club, and Vineyard Wind LLC.³

9 After the record was developed through discovery and the submission of additional
10 testimony by the parties, the Department held joint evidentiary hearings on
11 February 25, 26, and 28, 2019. During the hearings, witnesses testified on behalf of the
12 EDCs, DOER and the Attorney General. The Department accepted briefs post-hearing.

13 On June 25, 2019, the Department issued an Order approving the PPAs between each of
14 the EDCs and HQUS. D.P.U. 18-64; D.P.U. 18-65; D.P.U. 18-66, at 151 (June 25, 2019)
15 (the “Order”). The Department’s Order included findings, consistent with Section 83D
16 and the Department’s regulations at 220 C.M.R. § 24.00 et seq. that the HQUS project:

- 17 (1) contributes to reducing winter electricity price spikes and guarantees energy
18 delivery in winter months;
- 19 (2) provides enhanced electricity reliability within Massachusetts;
- 20 (3) avoids line loss and mitigates transmission costs to the extent possible,
21 while ensuring that transmission cost overruns, if any, are not borne by

³ In D.P.U. 18-64, the Department additionally granted limited participant status to The Energy Consortium and the Western Massachusetts Industrial Group.

- 1 ratepayers;
- 2 (4) adequately demonstrates project viability in a commercially reasonable
3 timeframe;
- 4 (5) allows clean energy generation resources to be paired with energy storage
5 systems; and
- 6 (6) where feasible, creates and fosters employment and economic development
7 in Massachusetts.

8 Order at 76-77, 82, 90, 93, 95-96, 100, 102, and 103.

9 In addition, the Department: (a) expressly found that the PPAs were in the public interest;
10 (b) approved the EDCs' request for 2.75 percent annual remuneration; and (c) approved
11 the EDCs' recovery of contract-related costs⁴ through their respective Long-Term Cost
12 Recovery Adjustment ("LTCRA") mechanisms. Order at 115-118, 133, and 141.

13 **Q. Please describe the Department's review of the TSAs.**

14 A. Although the review and acceptance of the TSAs is under the jurisdiction of the FERC, the
15 Department reviewed the TSAs in conjunction with the PPAs and determined the structure
16 of the TSAs mitigates transmission costs for the clean energy generation resource under
17 contract and ensures that any transmission cost overruns will not be borne by ratepayers
18 consistent with the then-effective provisions of Section 83D. Order at 95. Additionally,
19 the Department approved net payments made under the TSAs to be appropriate for
20 recovery through the LTCRA, along with the other approved costs noted above. Id. at 146.

⁴ Included in the contract-related costs are those incremental external costs incurred to solicit, evaluate, negotiate, execute, and administer long term contracts pursuant to Section 83C and Section 83D, which are not covered by the fees paid by bidders or otherwise recovered in rates. Order at 144-145.

1 FERC formally accepted the TSAs in October 2018, pursuant to its jurisdiction.⁵

2 **Q. Please provide a brief description of the TSAs.**

3 A. The TSAs provide the terms by which the EDCs will purchase firm transmission service
4 for the delivery of energy under the PPAs into New England over the “NECEC
5 Transmission Line” (as defined below).

6 As described further in the TSAs, NECEC LLC intends to develop, construct, own and
7 maintain a 1,200 MW +/-320 kV HVDC transmission line extending from the U.S. Border
8 at Beattie Township, Maine to a new direct current to alternating current converter station
9 in Lewiston, Maine (the “HVDC Line”) and a new 345 kV AC transmission line connecting
10 the converter station to the existing Larrabee Road substation (the “AC Line”). To
11 interconnect the HVDC Line and the AC Line with the bulk power system in New England,
12 CMP intends to develop, construct, own and maintain additional 345 kW AC transmission
13 lines, rebuilt 115 kW AC transmission lines and other substation equipment (the “AC
14 Upgrades”). The HVDC Line, the AC Line, and the AC Upgrades together make up the
15 new “NECEC Transmission Line.”

16 NECEC LLC will make transmission capacity on the NECEC Transmission Line available
17 to the EDCs to deliver electrical energy as scheduled by the EDCs up to 1,090 MW
18 measured at the delivery point in Lewiston, Maine.

⁵ On October 19, 2018, FERC accepted the TSAs for effect October 20, 2018. Central Maine Power Company, 165 FERC ¶61,034 (2018).

1 **Q. Have the TSAs previously been amended?**

2 A. Yes. The EDCs previously notified the Department of three prior amendments. The first
3 amendment extended the dates for payment adjustment per Section 8.1, Regulatory
4 Approval, and FERC Authorization of the TSAs⁶ (“First Amendment”).

5 The second amendment (“Second Amendment”) consents to the assignment of the TSAs
6 from CMP to NECEC LLC subject to additional agreements that: (1) Avangrid, Inc. will
7 provide a guaranty for NECEC LLC’s obligations under the TSAs; and (2) the credit
8 support under the TSAs is increased by \$10,000,000 (apportioned among the EDCs) for
9 the period from the assignment through the Commercial Operation Date. In addition, the
10 Second Amendment reduces by 50 percent the monthly escalation factor for the
11 transmission service payments for each month that the final regulatory approval is delayed
12 past June 25, 2019, and extended several deadlines.⁷

13 On September 17, 2021, the EDCs notified the Department of the third amendment (“Third
14 Amendment”), which addresses certain upgrades and modifications to the New England
15 Transmission System, as determined by ISO-NE, that satisfy the Capacity Capability
16 Interconnection Standard under the ISO-NE Tariff.⁸ The Third Amendment also (1)
17 extends the FERC authorization deadline; (2) establishes deadlines for local municipal
18 approvals of the AC Upgrades under Section 3.3.3(a) of the TSAs; (3) amends the

⁶ See D.P.U. 18-64/65/66, Distribution Companies Letter (October 15, 2018); see also D.P.U. 18-64/65/66, Distribution Companies’ Letter (December 22, 2022).

⁷ See D.P.U. 18-64/65/66, Distribution Companies’ Letter (July 7, 2020).

⁸ See D.P.U. 18-64/65/66, Distribution Companies’ Letter (September 17, 2021).

1 requirements for Critical Milestones under Sections 4.1(a)(i), 4.1(a)(iii), and 4.3 relating
2 to the AC Upgrades and modifications to the Seabrook generator circuit breaker; (4)
3 amends NECEC LLC's responsibilities under Section 5 of the TSAs to include reference
4 to obtaining all municipal authorizations necessary to complete the AC Upgrades; (5)
5 amends the representations in Section 21.2(g) of the TSAs to include references to required
6 municipal approvals for the AC Upgrades and required modifications to the Seabrook
7 generator circuit breaker; and (6) updates Attachments A, B and C to the TSAs.

8 **Q. Was the initial TSA rate adjusted over the last several years?**

9 A. Yes. The TSA Unit Prices were adjusted pursuant to the terms of Section 8.1 of the TSA,
10 which states:

11 Section 8.1 Transmission Service Payments. During the Operating Phase,
12 except to the extent such payment is excused or reduced pursuant to the
13 terms of this Agreement, Distribution Company shall pay to Owner a
14 transmission service payment (the "Transmission Service Payment") on
15 a monthly basis in an amount calculated as set forth in Attachment J
16 pursuant to invoices delivered by Owner to Distribution Company;
17 provided, however, that, in the event Regulatory Approval does not occur
18 by January 25, 2019, the Transmission Service Payment shall increase
19 0.18333% per month for each full month following January 25, 2019 until
20 such Regulatory Approval is received.

21 The Order was appealed to the Massachusetts Supreme Judicial Court ("SJC") by NextEra.
22 In October 2020, the SJC affirmed the Order, but the appeal caused a delay in Regulatory
23 Approval becoming final (relative to the Department's approval on June 25, 2019)
24 triggered adjustments under Section 8.1 by 0.18333% per month. The Second
25 Amendment, however, modified Section 8.1 of TSA and reduced the escalation rate of the
26 TSA Unit prices attributed to the delay in Regulatory Approval, from 0.18333% per month

1 to 0.091665% per month. Pursuant with this provision, the Unit Price for Contract Year 1
2 was adjusted from \$9.16/kW-month to \$9.29/kW-month. Copies of each of the EDC's
3 Notices to Central Maine Power Company of Receipt of Regulatory Approval are attached
4 as Exhibit JU-2-1.

5 **IV. FOURTH AMENDMENT**

6 **Q. When did the EDCs learn that NECEC LLC was interested in negotiating a fourth**
7 **amendment to the TSAs?**

8 A. In November 2022, NECEC LLC informally contacted the EDCs about an adjustment to
9 the transmission service payments to account for an alleged change in applicable law.
10 NECEC LLC first wrote the EDCs a formal letter about an adjustment in January 2023.

11 **Q. What is the EDCs' understanding of NECEC LLC's basis for requesting negotiation**
12 **of a fourth amendment to the TSAs?**

13 A. In its communications noted above in November 2022 and January 2023 as well as
14 subsequent communications, NECEC LLC cited Section 19.2(b) of the TSAs as its basis
15 for requesting negotiation of a fourth amendment to the TSAs. Among other things, that
16 Section sets forth certain obligations of the parties to use commercially reasonable efforts
17 to negotiate amendments to the TSAs upon changes in applicable law (as defined in the
18 TSAs).

19 It is our understanding that, in November 2021, Maine voters approved a citizens' initiative
20 ("Initiative") that enacted I.B. 2021, ch. 1, §§ 1-6 ("Maine Legislation") (see Exh. JU-2-
21 4). The Maine Legislation retroactively prohibited the construction of "high impact electric
22 transmission lines" like the NECEC Transmission Line in the area of Maine where it is

1 being constructed. The Maine Legislation also required 2/3 of all members elected to each
2 house of the Maine Legislature to approve the construction of high-impact electric
3 transmission lines that cross or utilize public lands. The Maine Legislation, if applied to
4 the NECEC Transmission Line, would have invalidated NECEC LLC's public lands lease
5 and prevented the Transmission Line from being completed.⁹

6 It is our further understanding that, the day after the Initiative's approval, NECEC LLC
7 sought an injunction to stop the Maine Legislation from taking effect, and filed a complaint
8 with the Maine Business Court, arguing that it had established "vested rights" in its permits
9 prior to the Maine Legislation, and accordingly the retroactive application of Maine
10 Legislation to the project was unconstitutional.¹⁰ A jury reached a unanimous verdict in
11 favor of NECEC LLC in April 2023, on its "vested rights" claim.¹¹ The Maine Business
12 Court in turn entered judgment in NECEC LLC's favor, which judgment became final and
13 non-appealable in May 2023.

14 During the pendency of the litigation, NECEC LLC was required to stop construction of
15 the NECEC Transmission Line because the Initiative prompted the Maine Department of
16 Environmental Protection to suspend the permits necessary for construction, and because

⁹ The Initiative enacted I.B. 2021, ch. 1, §§ 1-6.

¹⁰ NECEC Transmission, LLC, et al v. Bureau of Parks and Lands, BCD-CIV-2021-00058/BCD-21-416 (2023).

¹¹ Additionally, a 2020 complaint about the Maine Bureau of Public Lands ("BPL") 2014 and 2020 decisions to lease two parcels of public reserved land for the NECEC Transmission Line was finally resolved in November 2022 when the Maine Supreme Court ruled in favor of NECEC LLC, finding that a citizen's initiative cannot retroactively invalidate the state lease granted by BPL to the NECEC Transmission Line. Russell Black et al. v. Bureau of Parks and Lands et al., 2022 ME 58, ¶¶ 3, 19 (Nov. 29, 2022).

1 NECEC LLC’s request for an injunction to stop the Maine Legislation from taking effect
2 was denied. NECEC LLC maintains that the Initiative resulted in a “change in Applicable
3 Law” and that it has been adversely affected, and thus the Unit Price needs to be amended
4 pursuant to Section 19.2(b) of the TSAs.

5 **Q. What substantive amendments were made to the TSAs in the Fourth Amendment?**

6 A. As explained in more detail in Section V, below, the Settling Parties agreed to revise the
7 Contract Year 1 Unit Price from \$9.29 to \$13.61 (the “Amended Unit Price”). In addition
8 to the Amended Unit Price, there are amendments to Section 1.1 (pertaining to the
9 definition of “Municipal Owner Approval Deadline,”), Sections 4.1(c) and 4.2(a)
10 (pertaining to Critical Milestones and extension rights), and Section 19.2(b) through (d) of
11 the TSAs (pertaining to changes in applicable law and adverse determinations). Please refer
12 to Exhibit JU-3 for a copy of the Fourth Amendment.

13 **Q. Does the Fourth Amendment to the TSAs affect the PPAs?**

14 A. The Fourth Amendment will result in an amended Commercial Operation Date for the
15 PPAs.

16 **Q. If FERC is the entity responsible for accepting the TSAs, why are the EDCs seeking
17 Department review of the amended TSAs?**

18 A. As part of the review and approval of the PPAs and TSAs, the Department approved
19 transmission costs for recovery through the EDCs’ respective LTRCA mechanisms.
20 Therefore, the EDCs are providing the Fourth Amendments for Department review in the
21 context of a Settlement Agreement, so that the EDCs may recover the additional costs
22 pursuant to Section 207 of Chapter 77 of the Acts of 2023 (“Section 207”) consistent with

1 the terms of the Settlement Agreement.

2 **V. SETTLEMENT AGREEMENT**

3 **Q. Please describe the negotiation process that resulted in the Settlement Agreement.**

4 A. As noted above, NECEC LLC raised its views regarding the “change in Applicable Law”
5 with the EDCs in November 2022 and sent the EDCs a formal letter seeking to begin
6 negotiating an amendment to the TSAs on January 13, 2023 (see Exh. JU-2-7). On January
7 18, 2023, the EDCs responded that they would engage in discussions with NECEC LLC
8 about a potential amendment while reserving all rights. Between late-January 2023 and
9 April 25, 2024, the EDCs requested and NECEC LLC provided certain information
10 concerning the alleged economic impacts to NECEC LLC as a result of the Maine
11 Legislation. Throughout 2023, the EDCs followed the litigation surrounding the Maine
12 Legislation and awaited the resumption of construction of the NECEC Project.

13 Over the course of several months, the Settling Parties met to discuss NECEC LLC’s
14 claimed loss of economic benefit due to construction delays resulting from the Maine
15 Legislation, culminating with the execution of Settlement Agreement on October 28, 2024.

16 The EDCs met on several occasions with NECEC LLC and/or DOER to discuss the
17 amendment to the TSAs and cost documentation NECEC LLC provided in support of its
18 claim of loss of economic benefit. In addition to these meetings, on several occasions, the
19 EDCs met with the DOER and AGO.

1 **Q. Did NECEC LLC provide documentation in support of the alleged impact to the**
2 **NECEC Project resulting from the Maine Legislation?**

3 Yes. NECEC LLC shared substantial documentation with the Settling Parties including,
4 but not limited to, third-party invoices, correspondence with contractors and vendors, and
5 projected costs.

6 **Q. Please summarize Section 207, and its relevance to the EDCs.**

7 A. During the course of the Settling Parties' negotiations, the Massachusetts Legislature
8 enacted Section 207 to address the circumstances raised by NECEC LLC and provide the
9 Department with express authority to approve the recovery of costs incurred by the EDCs
10 associated with the delay of the NECEC Project (see Exh. JU-2-9). Specifically, Section
11 207 states:

12 SECTION 207. Notwithstanding any general or special law to the contrary,
13 the department of public utilities may allow recovery by the electric
14 distribution companies of transmission service agreement expenditures and
15 payments associated with clean energy generation power purchase
16 agreements previously approved by the department following a competitive
17 solicitation and procurement conducted under section 83D of chapter 169
18 of the acts of 2008, inserted by section 12 of chapter 188 of the acts of 2016,
19 in connection with a change in law in the state of Maine, subsequently
20 causing suspension of development construction; provided, however, that if
21 the department elects to allow such recovery, it shall allow recovery for such
22 expenditures and payments that the department determines to be associated
23 with the subsequent construction delay.

24
25 Section 207 assured the EDCs that the Massachusetts Legislature supported both the
26 NECEC Project overall and cost recovery associated with the delay of the NECEC Project
27 arising from the alleged change in law specifically.

1 **Q. Following enactment of Section 207, was an agreement negotiated for an Amended**
2 **Unit Price?**

3 A. Yes. The Fourth Amendment includes the negotiated Amended Unit Price that has been
4 agreed to by the Settling Parties (Exh. JU-3). The agreed-upon Amended Unit Price is
5 intended to mitigate the financial impact on NECEC associated with the construction delay
6 and associated cost that NECEC LLC maintains was caused by the Maine Legislation.

7 **Q. What are the terms of the Settlement Agreement?**

8 A. The Settling Parties agree: (1) HQUS has provided prior written consent to the Fourth
9 Amendment;¹² (2) NECEC LLC acknowledges it has exhausted its change in applicable
10 law claims and any other potential claims under the TSAs or otherwise related to the
11 Initiative, except for schedule extensions; (3) Section 19.2(b) of the TSAs has been
12 materially modified; (4) the EDCs are entitled to full cost recovery of the costs associated
13 with the Fourth Amendment, including costs incurred in developing the Fourth
14 Amendment and the Settlement Agreement; and (5) any further consensual schedule
15 extension of the TSAs, beyond those contemplated in the Fourth Amendment would
16 require prior written consent of HQUS.

17 **VI. NET BENEFITS**

18 **Q. Did the EDCs provide a net benefits evaluation in D.P.U. 18-64/65/66?**

19 A. Yes, a quantitative and qualitative analysis was conducted to determine the direct and
20 indirect benefits of the NECEC Project. The NECEC Project was projected to provide

¹² HQUS has provided its written consent. See Exhibit JU-5 to this testimony.

1 \$3.962 billion in projected nominal below-market costs (benefits) to Massachusetts
2 customers.¹³

3 **Q. Did the Department find that the NECEC Project provided net benefits to customers?**

4 A. Yes, the Department found in its Order that the EDCs had demonstrated there are
5 significant net benefits to customers associated with the PPAs (i.e., the EDCs had shown
6 that the NECEC Project will produce benefits to customers that will exceed the costs of the
7 PPAs). Order at 110. In particular, the Department found that the EDCs had shown that
8 the aggregate delivered cost for energy and environmental attributes under the PPAs is less
9 than the forecasted market prices for delivered energy and clean energy certificates by
10 \$3.962 billion (nominal) over the life of the PPAs. Id. The Department further found that
11 significant qualitative benefits will flow to customers under the PPAs in the areas of
12 reliability, mitigated environmental impacts, and economic development. Id. The
13 Department ultimately found that the PPAs are a cost-effective mechanism for procuring
14 low-cost renewable energy on a long-term basis. Id. at 11, citing Section 83D; 220
15 CMR 24.05(1).

16 **Q. Did the EDCs perform a new net benefits analysis for purposes of the Settlement**
17 **Agreement?**

18 A. No. Section 207 does not require a new net benefits analysis to receive approval for cost
19 recovery from the Department. In fact, it would not be appropriate to subject the price
20 adjustment in the Fourth Amendment to the TSA to a new net benefits analysis using

¹³ D.P.U. 18-64/65/66 Joint Testimony of Jeffrey S. Waltman, Timothy J. Brennan, and Robert S. Furino filed on July 23, 2018, at 41.

1 current-day assumptions for forecasted costs and benefits. The PPAs received Department
2 approval pursuant to Section 83D based on a net benefits analysis in 2017, that approval
3 was reviewed and affirmed by the SJC, the PPAs continue to be effective, and Section 207
4 does not require a re-justification or re-evaluation of the associated costs and benefits
5 resulting from the Amended Unit Price. However, to assure the Department and customers
6 that the PPAs are still projected to be net-beneficial, the EDCs recalculated the net benefits
7 of the NECEC project by adding in the increased costs resulting from the Amended Unit
8 Price.

9 **Q. If the Amended Unit Price is included in the EDCs' original net benefits analysis, will**
10 **the PPAs still yield net benefits for Massachusetts customers?**

11
12 A. Yes. The EDCs estimate that the incremental cost increase from the Fourth Amendment
13 is approximately \$521 million (2017 dollars). When this cost is included in the EDCs'
14 original net benefits analysis (after also accounting for the other TSA rate adjustments
15 described above), the EDCs estimate the NECEC Project still yields approximately \$3.380
16 billion (2017 dollars) in net benefits to Massachusetts distribution customers.

17 **VII. COST RECOVERY**

18 **Q. Did the Department approve recovery of TSA-related costs in the Order?**

19 A. Yes, the Department approved recovery of net payments made under the TSAs.¹⁴

20 **Q. How do the EDCs recover the TSA-related costs?**

21 A. The EDCs recover costs associated with the TSAs through their respective LTRCA

¹⁴ Order at 142.

1 mechanisms as described in National Grid’s Renewable Energy Recovery Provision,
2 M.D.P.U. No. 1540; Eversource’s LTRCA, M.D.P.U. No. 69E; and Unitil’s LTRCA,
3 M.D.P.U. No. 444.

4 **Q. What is your understanding of how Section 207 addresses the EDCs’ ability to recover**
5 **TSA costs?**

6 A. Although we are not attorneys, our understanding of Section 207 is the Department may
7 allow the EDCs to recover TSA expenditures and payments in connection with the NECEC
8 Transmission Line upon a determination that the expenditures and payments are associated
9 with construction delays caused by the Maine Legislation.

10 **Q. Are the cost increases driving the Amended Unit Price attributable to the Maine**
11 **Legislation?**

12 A. NECEC LLC has represented that the incremental cost increases are associated with
13 construction delays caused by the Maine Legislation.

14 **Q. What were the TSA-related costs approved for recovery in D.P.U. 18-64/65/66?**

15 A. The TSA-related costs approved for recovery in D.P.U. 18-64/65/66 through the LTCRA
16 tariffs were \$2,993 million (nominal) over the life of the TSA, inclusive of remuneration.

17 **Q. With the Fourth Amendment, what are the costs that will be recoverable, and in what**
18 **amount?**

19 A. The costs recoverable arising from the Fourth Amendment to the TSA are \$ 1,411 million
20 (nominal) over the life of the TSA, inclusive of remuneration. These costs include all
21 categories of costs eligible for recovery through the LTCRA tariffs, with the exception of
22 administrative costs.

1 **Q. Are the EDCs providing illustrative bill impacts for these costs?**

2 A. Yes. In addition to our testimony, each EDC is providing illustrative bill impacts as

3 Exhibits JU-4A (Eversource), JU-4B (National Grid) and JU-4C (Unitil).

4 **VIII. CONCLUSION**

5 **Q. Does this conclude your testimony?**

6 A. Yes, it does.