November 22, 2021

Caitlyn P. Nichols
NYSDEC Region 2 Headquarters
47-40 21St.
Long Island City, NY 11101
(718) 482-4997
DEP.R2@dec.ny.gov

Cc: Basil Seggos, Commissioner, NYS Department of Environmental Conservation.

RE: National Grid CLCPA Assessment

Dear Ms. Nichols:

On behalf of the Sane Energy Project, No North Brooklyn Pipeline Coalition, University Network for Human Rights, Pace Environmental Litigation Clinic, Dr. Robert Howarth, and Dr. Anthony Ingraffea, we submit this response to address significant inaccuracies we have found in National Grid's CLCPA assessment for its Vaporization Project ("Project") at the Greenpoint Energy Center.

National Grid's failure to make its CLCPA assessment publicly available before its October 21, 2021 information session is inconsistent with the Company's obligations under both the CLCPA and DEC's Commissioner Policy 29. Impacted members of the public had no opportunity to ask questions or raise concerns about the CLCPA assessment at the information session, since National Grid did not make the assessment publicly available until November 1, 2021.

We are also still waiting for National Grid to respond to public questions submitted to the company on October 20, 2021. These questions raise many of the substantive and significant issues with the Vaporization Project already outlined in public comments and previous public hearings. National Grid has once again failed to address these concerns in its CLCPA assessment.

We call on DEC to deny National Grid's air permit application for the Vaporization Project. The Project is inconsistent with the CLCPA, and National Grid has failed to demonstrate that the Project is justified notwithstanding this inconsistency. National Grid's CLCPA assessment is flawed for the following reasons:

1. **National Grid fails to properly assess GHG emissions for the Vaporization Project by falsely claiming that upstream and downstream emissions will not change.**

In its analysis, National Grid claims that "the new vaporizers do not increase annual output from the facility or frequency of plant operation because vaporization at the facility is limited by the capacity of the existing storage tanks" and thus that upstream and downstream greenhouse gas (GHG) emissions will not change.

We are fully aware that National Grid is legally barred from increasing LNG storage capacity at its facility by a law that was passed after a similar LNG storage facility on Staten Island exploded; however, the Vaporization Project is one of several distributed fracked gas projects that—according to National Grid—make up for the denial of the Williams NorthEast Supply Enhancement (NESE) Project, and the stated purpose of the vaporizers is to allow National Grid to add 60MDth of *incremental capacity* to its gas supply portfolio.

National Grid would have been the sole purchaser of gas from the proposed Williams NESE pipeline, and the two new vaporizers (13 & 14) were not originally proposed in the Company's Public Service Commission (PSC) rate recovery proceeding. Instead, National Grid proposed the vaporizers in supplemental testimony before the PSC in December 2019,[1] after the DEC temporarily rejected a permit for the Williams NESE Pipeline and the PSC began a proceeding investigating National Grid's unauthorized denial of service. The vaporizers were proposed as part of a no-pipeline alternative to provide additional gas supply in the absence of the Williams NESE pipeline.

This has been confirmed repeatedly—for example, National Grid's May 2020 Natural Gas Long Term Capacity Supplemental Report included the Vaporization Project as one of the Company's long-term "supply option[s] to close the demand gap."[2] Most recently, National Grid's August 2021 Long Term Capacity report stated that the Vaporization Project remains "crucial" to "meet *growth in demand* in the coming winters" and that its system is "ready to handle the *additional gas that the Vaporization Project will provide.*"[3]

If National Grid vaporizes and delivers an additional 60MDth of incremental capacity, the direct GHG emissions from consumption of that gas would be 3.27 million metric tons (MMT) of CO2e. Upstream emissions associated with 60th are 2.71 MMT CO2e, for a total of 5.98 MMT CO2e. It should be noted that in order to deliver 60MDth to customers, more than 60MDth of gas would need to be extracted (primarily through fracking) due to gas leaks (emitting methane, a potent GHG) from pipelines carrying the gas to and from the Greenpoint facility. Our 5.98 MMT estimate does not include these additional emissions, nor does it include the emissions associated with energy wasted through the LNG process. Even so, our underestimated

[1] National Grid Second Supplemental Testimony of Gas Infrastructure and Operations Panel before the Public Service Commission, December 13, 2019, p. 14 of 20. Available at: https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={302CBAB8-36A3-4E5D-8BF4-5024FEE9F4F3}
[2] National Grid Long-Term Capacity Supplemental Report, May 2020, p. 50: https://www.nationalgridus.com/media/pdfs/other/ltng-supplementalreport.pdf
[3] Natural Gas Long-Term Capacity Third Supplemental Report, August 2021, p. 9. Available at: https://ngridsolutions.com/docs/DIGITAL_NationalGrid-LTC-Longform-Report.pdf

emissions of 5.98 MMT are over 78 times greater than the 76,082 MT of CO2e disclosed as the facility total in Table 3 of National Grid's CLCPA assessment.

2. **National Grid fails to properly assess GHG emissions by excluding the combustion of gas and related CO2 emissions.**

In addition to grossly underestimating emissions from the Vaporization Project by excluding analysis of the additional 60 MDth of incremental capacity the Project would enable, National Grid also underestimates emissions by excluding combustion-related emissions.

In its assessment, National Grid acknowledges that the CLCPA requires the energy sector, of which it is a part, to include "direct fuel combustion within the state (associated with building fuel usage)" in emissions figures; however, National Grid includes no downstream CO2 emissions associated with the combustion of the gas that will be vaporized by the Project and delivered by the Company. National Grid confirmed during its rate recovery proceeding before the PSC that its plan to reduce emissions includes neither an assessment of combustion-related emissions nor any anticipated actions to reduce combustion-related emissions. National Grid's incomplete accounting of its emissions is inconsistent with CLCPA requirements.

3. **National Grid fails to conduct an assessment of the Project's impact on disadvantaged communities.**

While National Grid's CLCPA assessment provides a flawed and grossly underestimated analysis of GHG emissions, it fails to provide *any* analysis of the impacts of the Vaporization Project on disadvantaged communities as required by Section 7(3) of the CLCPA, which states:

> *In considering and issuing permits, licenses, and other administrative approvals and decisions, including but not limited to the execution of grants, loans, and contracts, pursuant to article 75 of the environmental conservation law, all state agencies, offices, authorities, and divisions shall not disproportionately burden disadvantaged communities as identified pursuant to subdivision 5 of section 75-0101 of the environmental conservation law. All state agencies, offices, authorities, and divisions shall also prioritize reductions of greenhouse gas emissions and co-pollutants in disadvantaged communities as identified pursuant to such subdivision 5 of section 75-0101 of the environmental conservation law.*

Without any analysis of the potential impacts of Vaporizers 13 and 14 on the environmental justice communities in which the vaporizers would be located, DEC cannot make a finding as to whether or not the Project would "disproportionately burden disadvantaged communities."

The Greenpoint Energy Center, the site of the proposed Vaporization Project, is located in and near "potential environmental justice areas," as designated by DEC.[4] The aging pipeline

[4] ArcGIS Webmap of Potential Environmental Justice Areas:

that—as a result of this Project—will transport additional gas to and from the LNG facility lies under Cooper Park Houses, a NYCHA housing complex where over 700 low and moderate-income, predominantly BIPOC families live.

Taken together, (1) the fact that National Grid's proposed vaporizers would be located in disadvantaged communities and (2) the scientific literature on the health and safety risks of such infrastructure constitute evidence that the Vaporization Project would disproportionately burden disadvantaged communities.

Regardless, Section 7(3) of the CLCPA unequivocally places responsibility on state agencies, authorities, and divisions, stating that they "*shall not* disproportionately burden disadvantaged communities" (emphasis added) and "*shall also* prioritize reductions of greenhouse gas emissions and co-pollutants in disadvantaged communities" (emphasis added). In other words, the plain language of Section 7 of the CLCPA makes clear that DEC has affirmative obligations to (1) ensure that disadvantaged communities are not disproportionately burdened and (2) prioritize disadvantaged communities for reductions of emissions and pollutants. DEC is obligated to thoroughly assess the potential impacts of this Project on disadvantaged communities. The Project's location in and near disadvantaged communities should automatically warrant further analysis by DEC as to whether the Project would disproportionately burden disadvantaged communities.

Numerous public comments, including those submitted by signatories to this letter, have raised serious concerns about the impacts of the Vaporization Project on environmental justice communities and the Project's lack of compliance with Commissioner Policy 29 and the environmental justice provisions of the CLCPA.[5] The environmental justice communities affected by this Project were never consulted about it, contrary to the requirements of CP-29. National Grid's recent attempt to go through the motions of compliance with CP-29 is too little, too late; CP-29's procedural provisions for community consultation are only meaningful when carried out at the beginning of the project application process.

4. **<u>National Grid fails to demonstrate any reliability need or justification for this Project.</u>**

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https://www.arcgis.com/home/webmap/viewer.html?url=https://services6.arcgis.com/DZHaqZm9cxOD4CWM/ArcGIS/rest/services/Potential_Environmental_Justice_Area__PEJA__Communities/FeatureServer&source=sd

[5] On March 10, 2021, Elisha Fye submitted the following comment to DEC: "I am vice president of Cooper Park Resident Council, and I have been living in this community since 1953. I am very appalled that we were not even notified until a month ago that all this was going on right in our community, not even to mention we are only a quarter of a mile away from the final stage of Stage 5. And we are already impacted here in this community with the oil spill that happened in 1950, October 10th, which was an underground oil spill twice the size as the Valdez. This community was not even aware of it until the '70s, and that was only because we were stricken with asthma, a pandemic of asthma, flooding in this community, illnesses, deformity in pregnancies, and not to mention that the soil is still polluted till this date."

National Grid has failed to justify the need for this Project. National Grid has claimed that the Project is needed to address future growth in demand; however, National Grid overestimates energy demand and wrongly conflates it with gas demand. The rate of increase in energy demand has slowed and analyses indicate that it can be met through non-gas alternatives. Two different recent analyses have found that National Grid has overestimated demand for natural gas,[6] and one of these analyses concluded that "[i]n fact, National Grid is expected to have a substantial *surplus* of supply capacity by 2034/35"[7] (emphasis added).

According to the Institute for Energy Economics and Financial Analysis (IEEF), "National Grid is not facing an urgent, pending, unmet demand"; "conditions of extreme cold weather 'peak demand' occur on only a few days out of the year, and experts report that the average number of days per year of below-freezing weather, locally, has been declining"; "A Con Edison study finds that overall warmer winters could lead to a 33% decrease in gas sales by 2050 and a 49% decrease by 2080"; "National Grid's projections of increasing demand are higher than Con Edison's, out of step with local and national trends, and unlikely to occur"; the COVID-19 pandemic will continue to further dampen gas demand; and "future economic growth in New York does not depend on soaring use of natural gas." The IEEF concludes that, under these conditions, "capital construction is not reasonable."[8]

National Grid's own data on gas usage confirm that there is no reliability need or justification for this Project. During the past three winters (2018-19, 2019-20, and 2020-21), National Grid has used only 10%, 1%, and 12%, respectively, of the total LNG capacity of its Greenpoint facility.

5. **<u>As DEC has already recognized, infrastructure that perpetuates a reliance on fossil fuels is inconsistent with the CLCPA.</u>**

As the DEC recently recognized in its decisions to deny permits for the Astoria and Danskammer power plants, "To achieve the State's climate change and clean energy policies as outlined in the CLCPA, the State needs to continue to accelerate its ongoing transition away from natural gas and other fossil fuels." Just like the Astoria and Danskammer facilities, the proposed Vaporization Project "perpetuates a reliance on fossil fuels" and is "inconsistent with the State's laws and objectives"—at a massive cost to New Yorkers.

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[6] Synapse Energy Economics, Inc., "Assessment of National Grid's Long-Term Capacity Report: Natural gas capacity needs and alternatives," April 15, 2020. Available at: https://www.synapse-energy.com/sites/default/files/Synapse-final-report-for-EELC-%28April-15-Revision%29-20-023.pdf; Suzanne Mattei, "False Demand: The Case Against the Williams Fracked Gas Pipeline," March 2019. Available at: https://350.org/wp-content/uploads/2019/03/Stop_Williams_False_Demand.pdf.

[7] Synapse Energy Economics, Inc., "Assessment of National Grid's Long-Term Capacity Report: Natural gas capacity needs and alternatives," April 15, 2020. Available at: https://www.synapse-energy.com/sites/default/files/Synapse-final-report-for-EELC-%28April-15-Revision%29-20-023.pdf

[8] Institute for Energy Economics and Financial Analysis, "Proposed NESE Gas Pipeline in New York: A Bad Bargain for Ratepayers and Taxpayers," April 2020. Available at: https://ieefa.org/wp-content/uploads/2020/04/Proposed-NESE-Gas-Pipeline-a-Bad-Bargain_April-2020.pdf#page=2

In its denial of Transco's application for a Water Quality Certification for the proposed Williams NESE pipeline in May 2020, DEC wrote: "It is already clear that achievement of the Statewide GHG emission limits…as well as achievement of net zero emissions in all sectors of the economy, will ultimately require a transition away from natural gas and other fossil fuels to produce energy. As this Project would facilitate the use of natural gas for an extended period of time, and may frustrate or delay the necessary transition away from natural gas to renewable and other clean sources of energy, it is clear that the Project as it is currently envisioned is inconsistent with the energy and climate policies, laws, and goals of the State." National Grid's Vaporization Project is inconsistent with the CLCPA for these same reasons.

National Grid's Vaporization Project would increase and prolong usage of a fossil fuel that should be banned. Continued growth in gas use is not consistent with the CLCPA under any circumstances. It is clear that the CLCPA requires an end to additional gas infrastructure and an immediate reduction in gas usage. Any proposal to build additional gas infrastructure or increase gas usage is fundamentally incompatible with achieving the greenhouse gas emissions reductions required by the CLCPA—as DEC has itself indicated in multiple permit decisions.

6. **<u>National Grid is investing much more heavily in infrastructure that increases reliance on fossil fuels (and is therefore inconsistent with the CLCPA) than in energy efficiency and demand response programs.</u>**

In its CLCPA analysis, National Grid claims to be complying with the law by "providing more than $118 million of funding for energy efficiency and demand response programs to allow National Grid to meet the targets for these programs in order to obtain cost recovery of new long-term capacity projects." However, the amount the Company is spending on energy efficiency and demand response programs pales in comparison to what the Company is spending (and forcing rate payers to recoup costs for) on new projects that increase reliance on fossil fuels (and are therefore inconsistent with the CLCPA).

The Vaporization Project would cost National Grid ratepayers $55 million, nearly half of the $118 million to be spent on energy efficiency. In 2020 and 2021, National Grid spent nearly $129 million on the North Brooklyn Pipeline, which the Company continues to falsely claim is completely independent of the Vaporization Project despite clear evidence—including the Company's own statements and documents—to the contrary.

Moreover, although National Grid's CLCPA analysis includes the energy efficiency and demand response investments it is allegedly making to meet long-term capacity lost from the Williams NESE Pipeline, the analysis fails to mention the full scope of fossil fuel infrastructure projects in which National Grid is investing, including the Company's CNG projects. National Grid stated in December 2019 that its Glenwood CNG facility expansion would cost $7 million and its two new CNG facilities in Inwood and Barrett would cost $13 million each.

In other words, National Grid is continuing to invest heavily in fossil fuel infrastructure. The Company's Vaporization Project, North Brooklyn Pipeline, and CNG projects alone would cost ratepayers $217 million—almost double the amount that National Grid is spending on energy efficiency and demand response programs. In fact, National Grid's only significant source of emissions reduction—replacement of more than 650 miles of leak-prone pipe over the next three years—also requires investment of hundreds of millions of rate payer dollars in prolonging reliance on fossil fuel infrastructure.

7. **<u>National Grid's alleged GHG emissions reduction as a result of more "efficient" vaporizers is wholly insufficient to meet CLCPA goals, and National Grid's CLCPA consistency assessment is fatally flawed as detailed below.</u>**

The air permit application that National Grid submitted to NYSDEC covers the entire Greenpoint facility. Limiting the analysis to the incremental emissions from two additional vaporizers is therefore inappropriate. In its CLCPA assessment, National Grid should have included full lifecycle (direct, upstream, and downstream) GHG emissions from the entire facility.

The emissions from the two proposed vaporizers are presented as if they were replacing some of the current emissions from existing vaporizers. However, National Grid does not propose to remove or completely replace any of the vaporizers. Therefore, the emissions from the two additional vaporizers should be presented as additional emissions rather than as a hypothetical reduction that misleadingly implies that two of the existing vaporizers would no longer be used. National Grid has not made any commitments that are enforceable via the air permit to not use the existing vaporizers.

The CLCPA assessment discusses an efficiency improvement and GHG emissions reduction associated with the additional vaporizers. This is both technically inappropriate and outright brazen. Unless two of the older vaporizers are being removed or taken out of the permit, the emissions from new vaporizers should be considered *in addition to* the emissions from the entire Greenpoint facility (including all of the existing, older vaporizers). National Grid's CLCPA assessment states that "the proposed new natural gas-fired vaporizers operate with an improved energy efficiency of 95.8 percent compared to the existing units with an energy efficiency of 92.4 percent." For equipment that would supposedly operate only 14 days per year, this efficiency improvement is immaterial. The assessment should have instead disclosed the amount of energy wasted through the LNG process: How much gas is boiled off? How much gas is flared? What percent of the energy supplied to the Greenpoint facility makes it to the consumers? While none of this relevant information has been disclosed, we are certain that the percentage of gas delivered to the facility that ultimately reaches customers is embarrassingly low and that the LNG process results in significant energy waste and avoidable GHG emissions.

Moreover, even if we were to suspend disbelief regarding National Grid's claim that operating additional fossil fuel equipment would somehow result in an emissions reduction, the projected "reduction" is reported as 101 metric tons of CO2e. Not only is this number based on an artificially inflated baseline, but it also constitutes only 0.0017% of the 5.98 MMT roughly estimated as resulting from 60MDth of gas. A reduction of 101 metric tons of CO2e is the equivalent of taking 20 cars off the road—hardly the kind of reduction that we need to achieve New York State's GHG emissions reduction mandates.

National Grid's CLCPA assessment also discusses the statewide GHG emissions inventory, including the 1990 baseline. It would have been interesting to see how much of the Greenpoint facility's emissions were included in that 1990 baseline, what the emissions were in recent years, and how those compare to the projected emissions from the entire facility, including the use of the supplied gas. We assume that National Grid failed to disclose this information because it would paint an unfavorable picture regarding the facility's GHG emissions.

National Grid's CLCPA assessment also mentions that the facility has operated since 1968. The associated infrastructure, much of it dating from the beginning of operations, stores and processes flammable, hazardous material in the existing floodplain. With accelerating climate change, to which this and similar facilities contribute, the floodplain elevation is projected to increase. Building additional hazardous infrastructure, such as LNG vaporizers, in a floodplain is ill-advised.

There is no room in the 2030 or 2050 GHG emissions budget for avoidable emissions and fossil fuel infrastructure expansion. There is no time for National Grid's greenwashing. Since the 1990s, National Grid has had every opportunity to transition away from fossil fuels into renewable energy markets. The Company chose not to do so and should no longer be permitted to delay meaningful climate action.

It is almost the end of 2021. We have very little time left to meet statewide GHG emissions reduction mandates. In light of the relatively small statewide GHG emissions reductions that have been achieved since 1990, and the tremendous challenge in reducing emissions to required levels by 2040 and 2050, further capital investments in major fossil fuel infrastructure are both reckless and inconsistent with the CLCPA.

Sincerely,

Sane Energy Project, No North Brooklyn Pipeline Coalition, University Network for Human Rights, Pace Environmental Litigation Clinic, Dr. Robert Howarth, Dr. Anthony Ingraffea