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February 18, 2014

VIA COURIER

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

ACCEPTED FOR FILING

FEB 18 2014

Federal Communications Commission
Office of the Secretary

Re: *Petition for Declaratory Ruling and/or Waiver submitted by
National Grid USA, Inc.*

Dear Ms. Dortch:

On behalf of National Grid USA, Inc., please find enclosed for filing an original and four copies of a Petition for Expedited Declaratory Ruling and/or Waiver.

We are providing with this filing an extra copy; please date stamp and return this copy to us for our records.

Sincerely,



Marianne R. Casserly

Encl.

No. of Copies rec'd 0+4
List ABCDE

Before the
FEDERAL COMMUNICATIONS COMMISSION

Washington, DC 20554

In the Matter of)

Rules and Regulations Implementing the)
Telephone Consumer Protection Act of 1991)

Petition of National Grid USA, Inc.)
for Expedited Declaratory Ruling or Waiver)
_____)

CG Docket No. 02-278

TO: Consumer and Governmental Affairs Bureau

PETITION FOR EXPEDITED DECLARATORY RULING AND/OR WAIVER

ACCEPTED/FILED

FEB 18 2014

Federal Communications Commission
Office of the Secretary

ALSTON & BIRD LLP
Marianne Roach Casserly, Esq.
950 F Street NW
Washington, DC 20004
(202) 239-3379

Counsel for National Grid USA, Inc.

February 18, 2014

INTRODUCTION

National Grid USA, Inc. (“National Grid”), on behalf of itself and its subsidiaries, through its attorneys, and pursuant to Section 1.2 of the Commission’s Rules, 47 C.F.R. § 1.2, respectfully submits this Petition for Expedited Declaratory Ruling and/or Waiver (this “Petition”) to the Federal Communications Commission (the “FCC” or “Commission”) relating to certain provisions of the Telephone Consumer Protection Act of 1991, 47 U.S.C. § 227 (the “TCPA”) and the Commission’s rules and regulations implementing the TCPA.

This petition seeks confirmation that a “d/b/a” name that is registered at the relevant State Corporation Commission (or comparable regulatory authority) satisfies the rule requirements set forth in 47 C.F.R. § 64.1200(b)(1). The requested ruling will provide certainty to callers with respect to their compliance obligations under the rules. In the alternative, and pursuant to Section 1.3 of the Commission’s Rules, 47 C.F.R. § 1.3, National Grid seeks a waiver to allow its use of a d/b/a name registered at the State Corporation Commission (or comparable regulatory authority) when placing prerecorded calls.

BACKGROUND

I. Factual Background. National Grid is a public company traded on the London Stock Exchange (NG) and the New York Stock Exchange (NGG). It is an electricity and gas company providing service to more than seven million gas and electric customers in the northeast U.S. National Grid delivers electricity to approximately 3.3 million customers in Massachusetts, New York and Rhode Island. National Grid also owns over 4,000 megawatts of contracted electricity generation, providing power to over one million Long Island Power Authority (LIPA) customers. It is also the largest distributor of natural gas in northeastern U.S., serving approximately 3.4 million customers in New York, Massachusetts, and Rhode Island.

All of these services are provided under the National Grid name. Marketing is conducted under this name and bills are sent under the National Grid name. Its service trucks bear the National Grid name. It also maintains its website under the National Grid name. In short, regardless of the technical legal corporate name of the company involved, customers identify their electric and gas service as coming from National Grid.

National Grid operates both gas and electric utilities and has retained certain historical legacy corporate names¹ that are specific to those utility services and the geographic regions they serve. Retaining these names is important as it facilitates the company's compliance with regulatory obligations specific to gas and electric utilities regulated by different state and federal governmental authorities. Transitioning all services to the corporate name of "National Grid" would be enormously confusing from an internal perspective due to differing utility regulation for gas and electric in the states that National Grid operates. Therefore, National Grid retains the legacy names for these "background" utility-regulation purposes, but uses the National Grid d/b/a name for all public-facing purposes – including marketing, billing, and service matters. The National Grid name is the only name used for customer interaction. Within the corporate structure, the legacy regulated retail companies are all wholly-owned subsidiaries of National Grid USA, Inc.

In each state in which it conducts business, National Grid has registered the "National Grid" name as a d/b/a name at the relevant State Corporation Commission (or comparable

¹ The legacy regulated retail companies are Massachusetts Electric Company, Nantucket Electric Company, Colonial Gas Company, and Boston Gas Company in Massachusetts; Niagara Mohawk Power Corporation, The Brooklyn Union Gas Company, and Keyspan Gas East Corporation in New York; and The Narragansett Electric Company in Rhode Island.

regulatory authority).² Therefore, a customer receiving a call from National Grid can access the relevant Secretary of State's publicly-available website (or, in Massachusetts, the local government equivalent), input the name "National Grid," and they will be able to retrieve the relevant corporate records and contact information.

As a public utility, National Grid uses informational prerecorded calls as a means to inform its customers about various service matters, including upcoming appointment times, service call changes, service coverage issues (such as outages), storm notifications, and medical-related calls. For example, National Grid notifies customers who require medical care or life support equipment of anticipated bad weather and related possible power outages, so that they can take precautions and make preparations for their medical care in the event of a power outage. These prerecorded calls are an important tool that National Grid uses to keep its customers informed of service issues on a timely basis.

II. Legal Background. Under Section 64.1200(b)(1) of the FCC's rules and the related orders implementing the TCPA, when National Grid places an informational prerecorded call to its customers, it is required to "state clearly the identity of the business, individual, or other entity that is responsible for initiating the call. If a business is responsible for initiating the call, the name under which the entity is registered to conduct business with the State Corporation Commission (or comparable regulatory authority) must be stated[.]" 47 C.F.R. §64.1200(b)(1).

The FCC has interpreted this requirement in numerous orders. In interpreting this rule, the Commission has said that the "legal name of the business" or the "official business name" is required to comply with Section 64.1200(b)(1). *See, e.g., In the Matter of Rules and Regulations*

² In Massachusetts, the d/b/a name is registered at the city and town level. The Massachusetts Secretary of State does not have a mechanism to register d/b/a names at the state level, so National Grid has registered its d/b/a name at the local government level.

Implementing the Telephone Consumer Protection Act of 1991, Second Order on Reconsideration, 20 FCC Rcd. 3788, para. 41 (2005) and *In the Matter of Dialing Services, LLC, Citation and Order*, 2013 WL 1120590, para. 8 (2013) (“If a business or other corporate entity is responsible for the call, the prerecorded voice message must contain that entity’s official business name (the name registered with a state corporation commission or other regulatory authority)” (emphasis added)).

The Commission has also spoken to the issue of whether a company’s “d/b/a” name is sufficient in a prerecorded call. The Commission stated: “We also decline to reconsider the requirement for businesses to use their legal name to identify themselves when they use prerecorded messages. We believe that the use of “d/b/as”(“doing business as”) alone in many instances may make it difficult to identify the company calling. However, as we stated in the *2003 TCPA Order*, the rule does not prohibit the use of “d/b/a” information, provided that the legal name of the business is also provided.” *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Second Order on Reconsideration*, 20 FCC Rcd. 3788, para. 41 (2005).

The FCC has not, however, ruled on whether a **registered** d/b/a name – a d/b/a name registered with the State Corporation Commission or comparable regulatory authority – satisfies the requirements of Section 64.1200(b)(1) of the FCC’s rules. This Petition seeks clarification and a declaratory ruling that a d/b/a name that is registered with the relevant State Corporation Commission or other comparable regulatory authority satisfies the requirements of Section 64.1200(b)(1) of the FCC’s rules. In the alternative, National Grid seeks a waiver to allow its use of a d/b/a name registered at the State Corporation Commission (or comparable regulatory authority) when placing prerecorded calls.

ARGUMENT

I. The Commission Should Confirm That a d/b/a Name Registered with the Secretary of State Satisfies Section 64.1200(b)(1).

Section 1.2 of the Commission's Rules allows the Commission to issue a declaratory ruling ... removing uncertainty." 47 C.F.R. § 1.2. National Grid submits that such a ruling is appropriate in this case since the Commission's rules and prior orders do not address the specific situation of using a registered d/b/a name when placing prerecorded calls.

A d/b/a name that is registered with the Secretary of State or comparable regulatory authority satisfies the plain language of Section 64.1200(b)(1) of the FCC's rules, which provides that "If a business is responsible for initiating the call, the name under which the entity is registered to conduct business with the State Corporation Commission (or comparable regulatory authority) must be stated[.]" 47 C.F.R. § 64.1200(b)(1). National Grid has registered the name "National Grid" in the appropriate regulatory authority in each state that it operates, and thus use of the National Grid name should be deemed to meet the requirements of the rule. National Grid is aware of no legal or regulatory authority that would prevent the registration of the d/b/a "National Grid" from satisfying the requirements of Section 64.1200(b)(1) of the FCC's rules.

A registered d/b/a name also satisfies the intent of the rule, which is to ensure that callers are able to identify the calling party. *See, e.g., Second Order on Reconsideration*, 20 FCC Rcd. 3788, para. 41 (2005). A d/b/a name that is registered with the appropriate regulatory authority will allow called parties the same ability to search for and identify the caller as they would be able to do with a search for a "legal" or "official business" name.

In National Grid's specific situation, customers will be able to identify the caller more easily if the caller is identified by its registered d/b/a name. National Grid uses the "National

Grid” name for customer service purposes, billing, and marketing. The service trucks that customers see operating in the area have “National Grid” logos. Thus, “National Grid” is the name that its customers are familiar with and associate with their service provider. Placing calls from “Boston Gas” or “Nantucket Electric Company” will be confusing to customers who are unfamiliar with these corporate entities and do not understand the legal relationship between these entities and National Grid.

Therefore, because National Grid’s d/b/a name is a “name under which the entity is registered to conduct business with the State Corporation Commission (or comparable regulatory authority),” National Grid submits that the Commission should issue a declaratory ruling stating that use of a registered d/b/a name satisfies Section 64.1200(b)(1) of the FCC’s rules.

II. In the Alternative, National Grid Seeks a Waiver to Allow Use of its Registered d/b/a Name.

In the alternative, National Grid seeks a waiver that would allow it to use its registered d/b/a name when placing prerecorded calls to customers.

Section 1.3 of the Commission’s Rules allows the Commission to waive its rules “for good cause shown.” 47 C.F.R. § 1.3. Good cause exists for a waiver in this situation because National Grid’s d/b/a name is registered with the State Corporation Commissions (or comparable regulatory authority). Therefore, National Grid’s customers receiving calls will easily be able to look for corporate contact information on the appropriate regulatory authority websites, in the same way that they would be able to search for a “legal” or “official business” name.

Good cause for a waiver also exists since customers are only familiar with the registered d/b/a name of National Grid, and have likely never heard of the legacy utility names. A waiver is particularly appropriate here because of the nature of National Grid’s business, which often involves workers visiting customer homes for service appointments. National Grid’s customers

are likely totally unfamiliar with the official business names, such as Boston Gas and Nantucket Electric Company. National Grid is concerned that its customers will be concerned and even alarmed if they receive a call from a company name they do not recognize, informing them that someone will be visiting their home for a service appointment. The risk of confusion is heightened for customers with medical needs whose health may rely on receiving a message from National Grid regarding potential interruptions of service, which they may ignore if they do not recognize the name of the legacy company. Therefore, good cause exists to allow use of the name that customers are familiar with, National Grid.

Moreover, using the official legal name together with the d/b/a name is cumbersome and confusing in light of the customers' unfamiliarity with the legal entity names. Using the full names also and unnecessarily prolongs the prerecorded calls, which National Grid prefers to keep short in order to maximize customer convenience.

Finally, and as referenced above, National Grid has registered the name, "National Grid" in the appropriate office in each state within which it operates. National Grid is aware of no legal or regulatory authority that would prevent the registration of "National Grid" from satisfying the requirements of Section 64.1200(b)(1) of the FCC's rules.

CONCLUSION

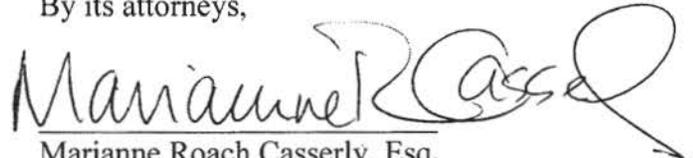
For the reasons set forth herein, National Grid seeks a declaratory ruling pursuant to Section 1.2 of the Commission's Rules holding that use of a "d/b/a" name that is registered at the relevant State Corporation Commission (or comparable regulatory authority) satisfies the rule requirements set forth in Section 64.1200(b)(1), which requires recitation of "the name under which the entity is registered to conduct business with the State Corporation Commission (or comparable regulatory authority)[.]" In the alternative, and pursuant to Section 1.3 of the

Commission's Rules, National Grid seeks a declaratory ruling to allow its use of its d/b/a name registered at the State Corporation Commission (or comparable regulatory authority) when placing prerecorded calls.

Dated: February 18, 2014

NATIONAL GRID USA, INC.

By its attorneys,

A handwritten signature in black ink that reads "Marianne Roach Casserly". The signature is written in a cursive style with a large, looping "R" and "C".

Marianne Roach Casserly, Esq.
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DECLARATION

I, Rafael A. Sulit, Director of U.S. Brand Strategy and Implementation Marketing & Customer Experience of National Grid USA, Inc., hereby declare under penalty of perjury that I have reviewed the foregoing Petition for Declaratory Ruling and/or Waiver, and the facts set forth are true and correct to the best of my personal knowledge, information, and belief formed upon reasonable inquiry.



Name: Rafael A. Sulit
Date: February 10, 2014