



STATE OF RHODE ISLAND

DIVISION OF PUBLIC UTILITIES & CARRIERS

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September 29, 2020

Luly Massaro, Clerk
Public Utilities Commission
89 Jefferson Blvd
Warwick, RI 02888

Re: Docket No. 3476

Dear Ms. Massaro,

The Division submits this position/recommendation in the above-entitled docket incorporating in this filing the Brief the Commission requested regarding the definition of the term “exogenous event” in its e-mail to the Division dated August 28, 2020.

I. Exogenous Event

The term “exogenous” appears in Docket 2930, Order No. 16200. In that docket, for purposes of a settlement, the term "State Initiated Exogenous Change" was defined as:

- (i) the enactment or promulgation of any new or amended state or local tax laws, regulations, or precedents governing income, revenue, sales, franchise, or property taxes or any new or amended state or locally imposed fees (but excluding the effects of annual changes in local property tax rates and revaluations);
- (ii) the elimination of any existing state or local tax or fee obligations; and
- (iii) any state legislative or state regulatory mandates which impose new obligations, duties or undertakings, or remove existing obligations, duties, or undertakings which individually decrease or increase Narragansett's costs.

In the same Order and settlement, the term "Federally Initiated Cost Change" was also defined for the purposes of the settlement to mean:

- (i) any externally imposed changes in the federal tax rates, laws, regulations, or precedents governing income, revenue, or sales taxes or any changes in federally imposed fees; and
- (ii) any federal legislative or federal regulatory mandates which impose new obligations, duties or undertakings, or remove existing obligations, duties, or undertakings which individually decrease or increase Narragansett's costs.

See also Docket No. 3617 (where a Stipulation and Settlement defined the term "exogenous event" to include "state initiated cost change", "federally initiated cost change" and the like). The Division has also used the term in a similar fashion. For example, in Docket No. 15-69, Order No. 21874, the Division approved a settlement in which the parties agreed "that in the event of any 'exogenous event' (such as a change in federal/state law or Division regulation) that results in the imposition of additional charges on towers performing non-consensual tows, the signatory towers shall not be precluded from seeking to negotiate with the Division a reasonable increase in rates to the extent necessary to recover for the exogenous event."

II. NGrid's Request for Relief from Penalty Dated July 17, 2020

A. Leak Call Responsiveness – During Normal Business Hours Q1 Penalty (The Gas Business Enablement ("GBE") Program)

The Division has reviewed the Request for Relief from Penalty Because of Exogenous and/or Force Majeure Event dated July 17, 2020 of The Narragansett Electric Company ("NGrid" or "Company"), and subsequently conferred with the Company about the request on September 2, 2020 and again on September 21, 2020. Based on the filings, the accompanying testimony and the discussions the Division has had with the Company, the Division is comfortable with the Company's request that seeks to mitigate the penalty of \$91,008.47 in Q1 in its entirety due to the complexities associated with implementing the GBE Program.

The GBE Program is a transformational program focused on managing assets, delivering work and serving customers by replacing aging computer systems, making enhancements to customer platforms, implementing advanced front-end solutions, *etc. A. Smith at 8-9*. During discussions with the Company on September 21, 2020, the Company indicated that the "misses" for the metric—Leak Call Responsiveness – Normal Business Hours—were the product of GBE Program software changes and the Company employees' need to learn how to input information and respond to calls under the program. The Company further noted the "misses" that did occur were by small increments of time (less than 15 minutes), and that Q1 "misses" were not repeated in subsequent quarters, again evidence that they were solely attributable to GBE Program implementation and not the Company's normal leak call responsiveness.

Based on these representations, the Division believes that the GBE Program's implementation is analogous to an "exogenous event" that is beyond the control of the Company, particularly in view of the GBE Program's complexity. The Division recommends that the Commission waive the Q1 penalty of \$91,008.47 in its entirety.¹

*B. Leak Call Responsiveness – After Business Hours Q2 Penalty
(The Christmas Day Event)*

In testimony dated July 31, 2020, the Company contended that 7 calls each originating in East Providence between 5:15 pm and 5:55 pm on December 25, 2019 could be characterized as a single event. The Company further contended that "but for" the seven calls, the Company would have responded to 4 of 5 other calls that occurred during the same time-period that day. *A. Smith at 11*. Thus, the Company was seeking to replace 3 "makes" and 9 "misses" with 5 "makes" and 1 "miss". *A. Smith at 12*. The Company requested that the Q2 penalty for Leak Call Responsiveness – After Business Hours of \$273,337.08 be reduced to \$66,000.00. *A. Smith at 12*.

On September 2, 2020, the Division conferred with the Company about the filing and requested the Company to take a "second look" at its analysis of the 4 calls. On September 11, 2020, the Company forwarded the Division a powerpoint presentation that reflected a re-analysis of the December 25, 2019 calls over an expanded time-period. On September 21, 2020, the Division and the Company held a second telephone conference to discuss the powerpoint presentation. On September 24, 2020, the Company amended its July 31, 2020 request ("Amended Request") to reflect 3 "makes" and retaining 3 "misses" as opposed to 5 "makes" and 1 "miss".

Based upon the materials received and its discussions with the Company, the Division is satisfied with the Company's revised analysis and the Amended Request. The 7 calls that originated in East Providence, in the Division's opinion, should be treated as a single "make" due to their proximity of geographical origin, their respective times of occurrence and the resources that the Company had available to respond to them.

The Division is also satisfied that "but for" these 7 calls (treated as 1 "make"), the Company would have "made" Duke Street in Providence and that 2 "misses" (Derbyshire Drive in Cranston and Oriole Avenue in Providence) would have remained "misses" along with Regina Drive in Cranston. In other words, like the GBE Program implementation, the Christmas Day Event is, in large part, analogous to the occurrence of an exogenous event that is beyond the control of the Company.

¹ The Division further believes that to impose a penalty on the Company in such circumstances would likely discourage excellent customer service and require the Company to allocate resources in a manner that is inefficient, and thus, adverse to customer interests.

The Division, therefore, is satisfied that the Company’s proposal to reduce the Q2 penalty from \$273,337.08 to \$120,471.99 is reasonable and recommends its approval.²

III. NGrid’s Request for Change of Metrics Dated August 3, 202

Relative to two metrics which the Company proposes to modify, the Division makes the following observations. The Division is amenable to the Company’s proposal to revise its leak-call response during normal business hours measure to Monday-Friday 8:00 a.m. to 4:00 p.m. (excluding holidays) and to revise its after business hours measure to the hours outside Monday-Friday 8:00 a.m. to 4:00 p.m. (including Saturday, Sunday, and holidays). This practice will conform the metric to the Company’s normal business hours.

The Division also agrees with the Company’s request to eliminate the customer-requested meter test within 15 days measure. The Company has shown there is a low occurrence of customer requests for meter testing. In any event, the Company is only proposing to eliminate the measure as a service quality metric. The Company represents that it will still complete customer-requested meter tests within a 15-day period.

For the reasons set forth herein, the Division recommends that the Commission:

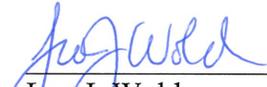
- 1) Waive the \$91,008.47 service quality penalty for Leak Call Responsiveness – Normal Business Hours in Q1 due to GBE Program implementation;
- 2) Reduce the service quality penalty for Leak Call Responsiveness – After Business Hours in Q2 from \$273,337.08 to \$120,471.99 in connection with the events of December 25, 2019 as set forth in the Amended Request;
- 3) Amend the leak-call response during normal business hours measure to the hours Monday-Friday 8:00 a.m. to 4:00 p.m. (excluding holidays), and amend the leak call response after business hours measure to the hours outside of Monday-Friday 8:00 a.m. to 4:00 p.m. (including Saturday, Sunday, and holidays); and

²	Total Calls	1,238
	Total Call Makes	1,164
	Weighted Q2 Avg.	$(1,164/1,238) \times 100 = 94.0226\%$
	Benchmark	95.27%
	Penalty Threshold	94.38%
	Standard Deviation	$(95.27 - 94.38) = 0.89\%$
	Variance from Mean	$95.27 - 94.0226 = 1.2474\%$
	# Standard Deviation	$1.2474/0.89 = 1.401573$
	Max. Penalty	\$300,000
	Penalty	$(1.401573 - 1) \times 300,000 = \$120,471.99$

- 4) Eliminate the customer-requested meter test within 15 days measure subject to the Company's continuing to complete customer-requested meter tests within a 15-day period.

Respectfully submitted,

Division of Public Utilities and Carriers



Leo J. Wold
Deputy Chief of Legal Services

Service List