



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

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Patrick C. Lynch, Attorney General

January 19, 2006

Via First Class Mail And Electronically

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

**Re: New England Gas Company Distribution
Adjustment Clause – Docket No. 3690**

Dear Ms. Massaro:

Enclosed for filing please find the original and nine (9) copies of the Attorney General's Position on the Earnings Sharing Mechanism (ESM) for filing in the above-referenced proceedings.

Thank you for your attention to this matter.

Sincerely,

William K. Lueker (R.I. Bar # 6334)
Special Assistant Attorney General
Tel. (401) 274-4400 ext. 2299
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Encl.

evidence, a motion that is still before the Public Utilities Commission (the “Commission”). Following procedural discussions moderated by Commission Counsel, however, the Company did agree to allow Division of Public Utilities and Carriers (the “Division”) personnel and/or the Attorney General to inspect its files with regards to this matter, and the Attorney General agreed that would be sufficient providing the Division indicated that it was satisfied with the access so provided.

The Attorney General has been advised by the Division’s staff that it was allowed access to the Company’s records with regards to the expenses included in the calculation of the ESM. Further, the Attorney General has learned that the Division is satisfied that the Company charged costs of \$8,640,000 related to the release of mercury from a Company-owned facility at the Tidewater site to non-operating, or “below-the-line,” expenses, and that these costs were thus excluded from operating expenses for the purpose of the ESM. However, the Division was not convinced that the Company properly attributed administrative and general expenses to the mercury-release incident in its calculation of the ESM. Accordingly, the Division is recommending making an adjustment to the ESM proposal of the Company to ensure that those costs are not included in the ESM calculation. (The Division recommends allocating roughly \$354,000 of administrative and general expenses to the mercury-release incident, and proposes to eliminate this amount of expense from the calculation of the earned return on common equity.)

Assuming that the Company agrees to the recommendation made by the Division on this issue, the Attorney General sees no reason to further pursue the data requested in his Motion to Compel. However, if the Company objects to the Division’s recommendation, the Attorney General believes he will have no alternative but to request that the Commission grant his Motion to Compel so that the Commission will have sufficient documentation in the record before it to weigh the relative merits of the Company’s and Division’s proposals as to this issue.

The Division has also recommended several other minor adjustments to the ESM calculation, including (but not limited to) eliminating about \$223,319 in legal fees from the ESM, and spreading other costs over several years. The Attorney General fully supports each and every one of the recommendations made by the Division with respect to modifying the ESM calculation, and urges the Commission to adopt all of the Division's recommendations.

PATRICK C. LYNCH
ATTORNEY GENERAL
By his attorney,



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CERTIFICATE OF SERVICE

I certify that a copy of the within position of the Attorney General was served by regular mail, postage prepaid, to all persons listed this date on the service list for PUC Docket No. 3690 on the 19th day of January, 2006.

