



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DIVISION OF PUBLIC UTILITIES AND CARRIERS

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July 24, 2006

Via Electronic Delivery and Regular Mail

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

Re: Petition and Motion To Intervene of R.I. Public Utility Regulatory Reform Alliance; Docket No. 3739

Dear Ms. Massaro:

On behalf of the Division of Public Utilities and Carriers (“Division”), I am writing in response to the Petition and Motion to Intervene; Motion for Relief from Order; Petition and Motion For Reopening and Reconsideration; Petition and Motion and Complaint for Rate Reduction; Petition and Motion for Interim Relief, which collectively were filed by the Rhode Island Public Utility Regulatory Reform Alliance (hereinafter referred to as the “Petitioner”). At the outset, the Division notes that the pleadings were filed in Docket Nos. 3706 and 3739. Docket No. 3706 is a closed docket, and the Petitioner’s requested relief must be denied as a matter of law.¹ As it relates to Docket No. 3739, Petitioner’s pleadings must be treated as a Motion to Intervene, as the docket remains open and subject to Commission action on or before October 31, 2006.²

In its omnibus pleading, the Petitioner makes a number of assertions about the Division’s statutory role in Commission proceedings, as well as the Division’s actions in Docket No. 3739, which are factually and legally incorrect. First, contrary to false assertion of the Petitioner, the Division *specifically recommended that the Commission order a rate reduction for all National Grid customers by reducing the Standard Offer*

¹ The Commission issued a final order in Docket 3706, and pursuant to R.I.G.L. § 39-5-1, the Petitioner has failed to meet the statutory deadline. Moreover, under the Commission’s Rules of Practice and Procedure, Petitioner was not an intervenor in Docket 3706, and therefore is not entitled to relief through Reopening or Reconsideration.

² National Grid’s filing for a rate decrease on March 31, 2006 was suspended by the Commission within thirty days of the filing, and pursuant to R.I.G.L. § 39-3-11, that suspension automatically extends the deadline for Commission action for an additional six months, or until October 31, 2006.

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rate from the current level of 10 cents per kWh to 9.6 cents per kWh. The Division's position was articulated in a Memorandum submitted on June 16, 2006 (attached hereto). For reasons unknown, the Petitioner failed to acknowledge or make reference to the Division's June 16th filing, which presented the Commission with a detailed analysis justifying a phased-in reduction of the Standard Offer rate, beginning with a rate decrease to 9.6 cents effective July 1, 2006.³ In light of the Division's stated position in this docket, it becomes clear there is very little difference between respective positions of the Division and the Petitioner.⁴ We will leave it to the Commission to decide if Petitioner's involvement as an intervenor in this proceeding would assist the Commission in bringing relevant information that is not already being provided by existing parties.⁵

Petitioner also makes a number of patently incorrect assertions relating to the Division's statutory role under Title 39 of the Rhode Island General Laws. Petitioner alleges that the Division has violated the Administrative Procedures Act and engaged in improper *ex parte* communications with National Grid. Petitioner's arguments are entirely misplaced. In the context of rate proceedings before the Commission, the Division is no different than that of any other party. See Narragansett Electric v. Harsch, 368 A.2d 1194, 1200 (R.I. 1977) (In rate matters before the Commission, "the Division assume[s] a role not

³ The Division would like to also correct another misrepresentation of the Petitioner which relates to paragraph number 8 in the petition. There the petitioner apparently misunderstood the Division's April 24, 2006 memorandum to the Commission because the petition represented that the Company's projection of a \$14.6 million over recovery as of 12/31/06 was comparable to what the petitioner stated was the Division's projection of \$300,000, based on the same data. The petitioner therefore characterized the Divisions' conclusions as "pessimistic". What the petitioner did not understand was that the Company's projection was based on the \$0.10 rate being in effect for all of 2006, while the Division's projection was based on a rate of 9.7 cents going into effect 5/1/06, which was Narragansett's proposal at that time. The relevant excerpt from the Division's memorandum reads "Narragansett has revised its standard offer rate proposed for May 1 to \$0.097 per kWh. **If approved**, based on current futures prices for oil and natural gas, there would be an approximate \$300,000 over-recovery as of December 31, 2006." (Emphasis supplied)

⁴ Petitioner believes that the Standard Offer rate should be reduced to 9.4 cents per kWh, although the Petitioner requests the decrease be applied retroactively. Retroactive application of rates is unwarranted in this case given that Standard Offer costs and revenues are fully reconciling under the adjustment clause provisions of the tariff. Petitioner presents no testimony to support its recommended decrease. The difference between the position of the Division and Petitioner is likely due to Petitioner's reliance on stale, if not irrelevant, data pertaining to oil and gas prices as evidenced in the attachments to Petitioner's pleading.

⁵ It is apparent from Petitioner's pleadings that it desires to assume the role of "ratepayer advocate" given its incorrect belief that the Division did not comply with its statutory obligation to actively participate in the current docket. The Petitioner was obviously mistaken. While Petitioner faults the Division for failing to utilize "outside experts", the matter at hand requires mathematical calculations based upon a projection of forward looking prices. Moreover, the Division does, in fact, consult with independent experts to evaluate and develop positions with respect to most, if not all, Standard Offer rate proceedings.

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unlike that of a party in interest"). Accordingly, the Division is entitled to engage in discussions with any other party in the proceeding.

In closing, the Division, like the Commission, struggles with the policy objective of achieving the lowest possible rates, without generating large revenue under-collections or over-collections. All Standard Offer costs must ultimately be recovered from ratepayers as a matter of law. As the Commission knows, predicting forward-looking energy prices is difficult, but the Commission's longstanding policy for promoting rate stability and thereby avoiding short-term gyrations in tariffed rates, stands as a reasonable approach that is both consistent with ratepayers' interests and the law.⁶ The Division awaits National Grid's filing of supplemental information, and hopes that forward-looking energy prices will allow the Commission to order a long-term, sustained rate decrease in the very near future.

Thank you for your attention to this matter.

Very truly yours,



Paul Roberti
Assistant Attorney General

Attachment: June 16, 2006 Division Memorandum in Docket 3739

cc: Thomas F. Ahern, Administrator
Service List in Docket No. 3739

⁶ The legislature's recent passage of Senate bill S 2903, entitled "The Comprehensive Energy Conservation, Efficiency and Affordability Act of 2006, sanctions the Commission's attempt to provide rate stability to ratepayers: "The legislature further finds and declares . . . that it is necessary to move beyond basic utility restructuring in order to secure for Rhode Island . . . the benefits of reasonable and *stable* rates." R.I.G.L. § 39-1-1(e)(4) (emphasis supplied).

Memorandum

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PUBLIC UTILITIES COMMISSION

To: L. Massaro

Commission Clerk

**From: D. R. Stearns, Rate Analyst, DPUC
Stephen Scialabba, Chief Accountant, DPUC**

Date: 6/16/2006

Re: Narragansett Standard Offer Filing: Docket 3739

On March 31, 2006 the Narragansett Electric Company d/b/a National Grid ("Narragansett", or "Company") submitted to the Commission a Standard Offer Rate Adjustment Filing ("Filing").

At that time, Narragansett proposed a reduction in the standard offer rate from the current \$0.10 per kWh to \$0.094 per kWh. The Company proposed that the standard offer rate reduction become effective May 1, 2006.

On April 21, Narragansett filed an update that reflected the increase in fuel prices which had taken place since the March 31, 2006 filing. Based on that increase, Narragansett revised its standard offer rate proposed for May 1, 2006 upward to \$0.097 per kWh. The Division, after having performed some analyses, recommended that the Commission defer any action on the standard offer price at that time due to volatility in the fuel markets which affects the cost of standard offer service under some of the wholesale contracts.

At an open meeting on Wednesday, April 26, 2006 the Commission voted in favor of delaying any change in the rate, for at least 30 days, in order to allow the parties additional time to further monitor fuel prices.

On May 31, 2006 Narragansett submitted to the Commission a request to withdraw the Standard Offer rate adjustment filed March 31, 2006. While the Company explains that the actual Standard Offer over recovery as of April 30, 2006 is \$6.3 million, "substantially" below the Commission initiated trigger of \$23 million, at which point the Company may consider filing for a rate change, Narragansett states that, based upon current fuel and sales estimates, the present Standard Offer rate would result in an over recovery at December 31, 2006 of \$48.4 million.

The Division requested, and the Company supplied a longer-range projection, taking into consideration the 4 mil increase in the base standard offer rate scheduled to take effect in January 2007. Continuation of the present Standard Offer rate of \$0.10 per kWh results in an over collection of approximately \$90 million at the end of 2007.

According to an analysis performed by the Division, a 10 percent increase over the projected fuel costs supplied by Narragansett from July 2006 through December 2007 still results in an over-recovery of about \$58 million at year end 2007.

The Division performed a further analysis to determine whether the Standard Offer rate could be presently reduced while maintaining a previously stated objective of the Division and Commission for rate stability for the primarily residential and smaller commercial standard offer customers. In performing the analysis, to be conservative, we again assumed a 10% increase in the fuel payments (over what the Company's analysis used) for the period beginning in July 2006. Our analysis considered different rate levels going into effect at various points in time to determine the effect on the standard offer reconciliation account.

Based on our analysis, we recommend the current 10 cent Standard Offer rate be reduced to 9.6 cents effective July 1, 2006. If that rate were put in effect and Narragansett's required fuel payments stay within the 10% variance utilized in our analysis, we believe a further reduction could be put into effect on November 1, 2006 while maintaining the reconciliation account with a positive balance well into 2007. As stated, our analysis took into consideration the fact that the underlying standard offer base cost under the wholesale contracts is scheduled to increase from 5.9 cents to 6.3 cents effective January 1, 2007.

Given the history of volatility in the fuel market and the fact that any hurricane disturbance during the next few months would likely exacerbate that upward price volatility, we believe a potential phasing – in of a standard offer rate reduction is prudent, and allows the Commission to re-examine the fuel markets as we head in to the winter season before implementing a further potential reduction. Our proposal minimizes the possibility of incurring a large over or under recovery balance in the reconciliation account through next winter while providing immediate rate relief this summer and possibly again in November 2006, depending on the status of fuel prices at that time.

In summary, to promote both rate relief and stability, the Division recommends the Standard Offer rate be reduced to \$0.0960 per kWh effective July 1, 2006, and the issue be re-examined no later than mid-October with the possibility of initiating a further reduction in the Standard Offer rate.

The Division further recommends the Company be ordered to continue submitting monthly Standard Offer reconciliation reports to the Commission.

Cc: Thomas Ahern,

Administrator, Division of Public Utilities and Carriers

Docket service list

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