

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION**

IN RE: SILENTSHERPA ENERGY CONSULTANT : DOCKET NO. 3887
AND PROFESSIONAL SERVICE, INC. :
PETITION REGARDING NON-FIRM :
SALES SERVICE :

ORDER

On August 14, 2007, SilentSherpa Energy Consulting and Professional Services, Inc. (“SilentSherpa” or “the Petitioner”) whose clients include Rhode Island Hospital, Roger Williams Medical Center, Kent Hospital, Stanley Bostich, and Microfibres, as well as other non-firm sales service customers, filed a petition with the Division of Public Utilities and Carriers (“Division”) seeking to amend Section 5 of RIPUC NG No. 101.¹ The Petitioner alleges that the existing non-firm sales tariff is unfair and should be replaced by a tariff that is based upon a more traditional cost of service plus an allowable return on investment pricing concept. The non-firm sales service rates are governed by Schedule G of Section 5 of RIPUC No. 101. This section of National Grid’s (“NGrid”) tariff establishes rates for non-firm sales service based on value-of-service pricing, whereby the price for non-firm sales service changes based upon the price of the customer’s alternative fuel and a discount related to the volume of gas consumption.

In its Petition to the Division, SilentSherpa asserted that the Division should amend the existing tariff for three reasons: 1) there is no rational relationship between a customer’s individual alternative fuel cost and the utility’s natural gas distribution charge to support its pricing scheme; 2) it is unfair because it is a state-sponsored rate scheme

¹ Non-firm or interruptible customers are those that have 2 sources of fuel. Usually, oil is the primary source of fuel and gas is used as a back up.

that handcuffs a ratepayer to a single natural gas distributor without protecting it from pricing abuses; and 3) allowing a utility to manipulate the cost of its natural gas distribution beyond the more traditional cost of service plus allowable return on investment is unsupportive of a competitive marketplace.

The Division filed a detailed and thorough response to SilentSherpa's petition and addressed each of its arguments. First and foremost, the Division noted that the Public Utilities Commission ("Commission"), and not the Division, has exclusive statutory responsibility for the regulation of National Grid's rates. R.I. Gen. Laws §39-3-11, *Narragansett Electric v. Burke*, 381 A.2d 1358 (R.I. 1997). The Division pointed out that in this particular rate case, as in every rate case, it participates as an indispensable party. *Providence Gas Co. v. Burke*, 419 A.2d 263 (R.I. 1980). For the Division to assume jurisdiction of SilentSherpa's petition would be an improper usurpation of the Commission's ratemaking authority.

The Division also responded to each of the Petitioner's substantive arguments. Specifically, the Division noted that value of service pricing is intended to address volatility in the relationship between natural gas and alternative fuel prices and the uncertainties regarding service volumes and revenue that can result from such volatility. This method of pricing, used by this Commission as well as a number of other Commissions beginning in the mid-1980s, was used to provide local gas distribution utilities greater flexibility to adjust their prices to compete with alternative fuels and to shift the responsibility for the recovery of costs associated with the provisions of non-firm sales to firm customers. The Division pointed out that value of service pricing is not

a discretionary pricing scheme as it is based on published prices for the type of alternative fuel used by the customer.

The Division also addressed the allegation that non-firm sales customers are unfairly handcuffed to a single natural gas distributor. The Division stated that the non-firm sales customers are not captive, inasmuch as they may at any time use alternative fuels. Finally, the Division noted that value of service pricing does not allow the utility to manipulate the cost of the service, as the price is based on publicly published data. SilentSherpa did not provide any evidence to support its allegation that NGrid may manipulate prices. The Division recognized that review of such tariff may be appropriate to determine whether current market conditions continue to support value of service pricing, but cautioned that such a review may not necessarily result in lower prices for non-firm sales customers.

In response to the Division's letter, SilentSherpa filed its Petition with the Commission on September 11, 2007. The Commission requested that NGrid respond to SilentSherpa's allegations, and NGrid did so on September 28, 2007 concurring with the Division's response. In response to SilentSherpa's allegations that its members are captive customers of NGrid, the Company noted that in addition to those customers at any time using alternative fuel, the majority of the customers also have the option of subscribing to NGrid's firm service with fixed distribution rates. NGrid suggested that any consideration of restructuring of the tariff be addressed during the general rate case which must be filed no later than October 1, 2008, but may be filed sooner. At that time, the Company will have fully allocated cost of service studies that will provide the proper foundation for establishing cost of service based rates.

On October 11, 2007, the Commission considered SilentSherpa's Petition at an Open Meeting. Regarding SilentSherpa's allegation that the Division has authority to consider its Petition, the Commission finds that the law is clear and that supporting case law establishes that the Commission has exclusive authority to regulate and make orders governing public utilities for the purpose of protecting the public against improper and unreasonable rates. R.I. Gen. Laws §39-1-1, *Energy Council v. Public Utilities Com'n*, 773 A.2d 853 (R.I. 2001), *Narragansett Electric v. Burke*, 381 A.2d 1358 (R.I. 1977). The rates approved by the Commission are presumed reasonable until such time as proven otherwise. *In re Island High Speed Ferry, LLC*, 746 A.2d 1240 (R.I. 2000).

The Commission notes that NGrid must file a general rate case by October 1, 2008, as required by Docket D-06-13, at which time all of the Company's rates and costs will be evaluated with a fully allocated cost of service study. SilentSherpa may move to participate in the rate case as an intervener and will have the opportunity to present a specific proposal for a cost of service based rate with the necessary documentation to support such proposal. Furthermore, during the rate case, the Commission will review and evaluate cost of service based rates for non-firm sales service at the same time that it is reviewing rates for of all other services. In order to properly evaluate the cost of service based pricing method for non-firm sales service customers and determine whether such is a proper and reasonable rate, the Commission will require NGrid to provide, in addition to its value of service based rate, an alternative cost of service based rate design for non-firm service customers.

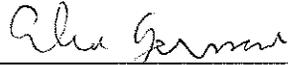
Accordingly, it is hereby

(19115) ORDERED:

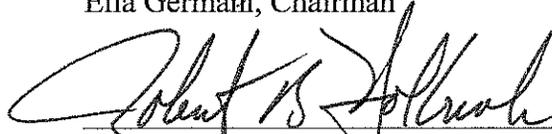
1. SilentSherpa's Petition Regarding Non-Firm Sales Service Rates is denied.
2. In its next general rate case, NGrid shall file with the Commission as part of its fully allocated cost of service study, and in addition to its value of service based non-firm rates, an alternative cost of service based rate design for non-firm service customers.

EFFECTIVE AT WARWICK, RHODE ISLAND, OCTOBER 11, 2007, PURSUANT TO AN OPEN MEETING DECISION ON OCTOBER 11, 2007. WRITTEN ORDER ISSUED OCTOBER 30, 2007.

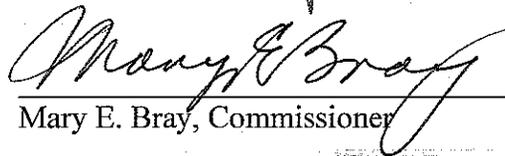
PUBLIC UTILITIES COMMISSION



Elia Germain, Chairman



Robert B. Holbrook, Commissioner



Mary E. Bray, Commissioner

