



State of Rhode Island and Providence Plantations

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*Patrick C. Lynch, Attorney General*

September 4, 2008

***VIA ELECTRONIC FILING AND HAND DELIVERY***

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

Re: **National Grid Gas Distribution Rate Case – Docket 3943;**  
**Request to Withdraw Decoupling Proposal**

Dear Ms. Massaro:

The Division of Public Utilities and Carriers (“Division”) hereby responds to National Grid’s request to withdraw its pending decoupling proposal from further Commission consideration in the above-referenced docket.<sup>1</sup> The Division submits that, contrary to the implications in National Grid’s letter requesting withdrawal of its decoupling proposal, this proceeding *is* the appropriate forum in which the Commission should decide issues associated with the specific decoupling proposal that the Company has presented. The parties in the case, along with the Commission, have invested considerable resources in reviewing and responding to National Grid’s decoupling request, and National Grid’s request at this point in the proceeding will result in the unproductive expenditure of substantial ratepayer funds.

National Grid asserts “strict procedural constraints in this contested case make this particular proceeding a less than ideal forum for a balanced consideration of the pros and perceived cons of decoupling.” However, consideration of decoupling in the context of a rate case – according to recent determinations of the Commission in Docket 3931 -- is *precisely* the forum within which decoupling proposals should be considered. The Commission’s earlier determination is validated by the revenue requirement implications of the decoupling proposal, as set forth in the testimonies of James Rothschild and John Farley.

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<sup>1</sup> The request was contained in a letter filed yesterday by Ronald Gerwatowski, National Grid’s Deputy General Counsel.

National Grid also claims that the instant rate case “may not provide the best environment through which the Commission can hear all points of view.” The Division, however, believes the opposite conclusion can be drawn – that is, the instant case and the Company’s decoupling proposal have generated substantial interest and participation from a number of interested parties. Those parties, including the Division, invested considerable time and effort in reviewing and responding to the programmatic details of the Company’s decoupling proposal. That these parties should come to the opposite conclusion of the Company regarding the merits of decoupling in Rhode Island, should neither be construed as a failure of the process nor should it be a basis to cast aspersions on the opposing views that this docket has generated. Rather, the evidence generated thus far has crystallized the value (or lack thereof) of decoupling as a general ratemaking policy. National Grid’s decoupling proposal provides clear benefits to the Company in terms of risk reduction and stronger revenue performance, and at the same time, the proposal provides very limited value to ratepayers as articulated in the pre-filed testimonies of Bruce Oliver and John Farley.

Furthermore, National Grid’s belief that the decoupling policy is “being misunderstood” represents an impermissible argument against the positions advanced by the opposing parties mid-stream in this docket, and should be disregarded by the Commission. To the contrary, the Division *clearly understands* what the Company’s decoupling proposal is all about, and remains confident that the Commission is very capable of reviewing the evidence and arguments of the parties and ultimately rendering a thoughtful decision setting forth the chosen policy on this important issue.

Rhode Island has heretofore been the national genesis of industry trends – *it was the first state in the nation to deregulate the electric industry and that decision continues to have tremendous implications for Rhode Island ratepayers.* The Division has learned well to critically evaluate new-found concepts that are sweeping across the nation, including the revenue decoupling trend, and to ensure that the implementation of new concepts are indeed in the best interest of ratepayers. With respect to electric deregulation, the Division would also point out that it was National Grid’s predecessors, New England Electric and Eastern Utilities, that crafted the comprehensive 1996 Utility Restructuring Act, without any knowledge of the regulators, even while the Public Utilities Commission was actively engaged in a docketed proceeding on that very issue.

Similarly, the Commission should recognize that a denial of National Grid’s petition to withdraw the decoupling issue and the Commission’s rendering of a decision on the merits does not guarantee that legislation will not be pursued which ultimately could prescribe a policy and procedure regarding “decoupling.” In that event, the Commission’s rendering of a decision on the merits in the pending docket would provide valuable guidance in the legislative process and at least would ensure that any legislative outcome did not arise due to regulatory silence on the issue when the Commission had an

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opportunity to address it front and center. The Division believes the issue has been fully vetted through the final filing of written testimony in Docket 3943, and only live testimony and briefing remain. At this point, months of work and many dollars have been expended to present the issue to the Commission for its consideration, and the Company's eleventh hour desire to withdraw the issue, only to re-litigate it shortly down the road, is distressing.

If the Commission should choose to grant the company's withdrawal request, the Division respectfully urges the Commission to require the Company to seek approval of decoupling in a rate case context and not through a generic proceeding. As this case has amply demonstrated, policy issues associated with the Company's decoupling proposal in this proceeding are highly intertwined with the revenue requirement determinations. Accordingly, as a condition to granting the withdrawal request, National Grid should be constrained to seek approval of decoupling in future rate cases only.

Thank you for your attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul Roberti", with a long, sweeping horizontal line extending to the right.

Paul Roberti  
Assistant Attorney General  
Chief, Regulatory Unit

cc: Thomas F. Ahern, Administrator  
Service List in Docket 3843