

**STATE OF RHODE ISLAND  
PUBLIC UTILITIES COMMISSION**

---

IN RE: NATIONAL GRID GAS )  
APPLICATION TO IMPLEMENT NEW RATES )

---

DOCKET NO. 3943

**REPLY BRIEF OF ENVIRONMENT NORTHEAST CONCERNING  
THE NATIONAL GRID DECOUPLING PROPOSAL, AS AMENDED**

Environment Northeast (“ENE”) appreciates the opportunity to submit this reply brief in support of the adoption of National Grid’s (the “Company”) proposed decoupling mechanism presented in this docket. ENE continues to believe that the adoption of the Company’s decoupling proposal is the proper policy choice for Rhode Island despite the arguments to the contrary. As discussed below, ENE does not find the arguments of the Division of Public Utilities and Carriers (the “Division”), the Energy Council of Rhode Island (“TEC-RI”) or the Office of Energy Resources (“OER”) persuasive. As a result, ENE urges the Commission to adopt the Company’s proposed decoupling mechanism in order to save customers money through increased energy efficiency investments.

## I. ARGUMENT

### A. The Commission Should Approve the Proposed Decoupling Mechanism Because it Breaks the Link Between National Grid's Sales and Revenues.

The proposed revenue-per-customer decoupling mechanism ("RDM") severs the link between the Company's revenue and its gas sales, thereby eliminating the powerful disincentive to increase investments in energy efficiency and other demand resources. Neither the Division, nor TEC-RI, nor OER have persuasively challenged this central function of the proposed RDM.<sup>1</sup> Instead, these parties focus their arguments, among other things, on National Grid's past DSM program performance,<sup>2</sup> the potential rate (and not bill) impacts of decoupling,<sup>3</sup> and the Company's future energy efficiency efforts.<sup>4</sup>

TEC-RI and the Division try to minimize the need for decoupling by referring to National Grid's good record (and the records of its predecessors) in the administration of DSM programming. See Post-Hearing Memorandum of the Division of Public Utilities and Carriers ("Division Brief") at 45-47; Post-Hearing Brief of the Energy Council of Rhode Island ("TEC-RI Brief") at 15. Indeed, TEC-RI's brief contains a vague reference to an EIA statistic suggesting that Rhode Island has the lowest energy use per capita in the country.<sup>5</sup> However, the proper

---

<sup>1</sup> Indeed, TEC-RI's witness acknowledged the existence of this disincentive during his testimony. See Testimony of John Farley, Tr. 9/29/08 at 164:11-165:1.

<sup>2</sup> See Division Brief at 45-47; TEC-RI Brief at 15.

<sup>3</sup> See Division Brief at 50; TEC-RI Brief at 13.

<sup>4</sup> See Division Brief at ; TEC-RI Brief at ; Initial Brief of the Rhode Island Office of Energy Resources ("OER Brief") at 3-4.

<sup>5</sup> See TEC-RI Brief at 15. Despite the lack of citation, it appears that TEC-RI was referring to EIA's "Energy Consumption by Source and Total Consumption per Capita, Ranked by State, 2005" which looks not at natural gas, but all energy use including petroleum, retail electricity sales, coal, and natural gas. (See [http://www.eia.doe.gov/emeu/states/sep\\_sum/html/pdf/rank\\_use\\_per\\_cap.pdf](http://www.eia.doe.gov/emeu/states/sep_sum/html/pdf/rank_use_per_cap.pdf)). When isolating natural gas

inquiry does not focus on Rhode Island's position relative to other states; rather, the question on which the Commission should focus its attention is whether Rhode Island is capturing all cost-effective natural gas efficiency that is currently available and is less expensive than supply. When framed in this manner, the evidence suggests that there is still a great deal of energy efficiency investments that can be made to reduce usage cost-effectively. See, e.g., Testimony of Nikolas Stavropoulos, Tr. 10/23/08 at 98:4-18. Indeed, there is no evidence in the record to suggest that Rhode Island gas customers have reached the limits of cost-effective energy efficiency investments. As a result, the Commission should set policies, like the proposed RDM, that encourage National Grid to favor practices that reduce usage and save customers money.

Similarly misplaced are arguments that the Company has not demonstrated how the decoupling mechanism will enhance its approach to energy efficiency.<sup>6</sup> As described in ENE's brief, there are several ways—direct and indirect—in which the Company can exert force to affect efficiency and conservation practices.<sup>7</sup> See Brief of Environment Northeast Concerning the National Grid Decoupling Proposal, As Amended (“ENE Brief”) at 14-15. This Commission should adopt a rate structure that aligns the incentives of the Company and its customers in order to maximize the cost-saving efficiency that is achieved. The Commission should focus on the

---

consumption, TEC-RI's claim is no longer true. According to 2005 EIA data, Rhode Island's per-capita *natural gas* usage (excluding usage for electric power generation) is 37<sup>th</sup> highest in the country, below the median, but not “#1.” Source: 2006 EIA and U.S. Census Bureau data.

<sup>6</sup> Despite testimony from the Conservation Law Foundation and two representatives at National Grid to the contrary, OER, in its brief, went so far as claim that the disincentive is “entirely theoretical.” See OER Brief at 3.

<sup>7</sup> In addition to administering DSM programs directly, this includes advocating for tighter codes and standards, pushing technological improvements, and shaping the competitive marketplace for more efficient products. See Direct Testimony of James Simpson, NGrid Ex. 12 at 19:9-18; Testimony of Seth Kaplan, Tr. 10/23/08 at 135-36.

long-term alignment of incentives, not whether the Company has made specific commitments in the context of this rate case (which is not a DSM docket).<sup>8</sup>

Likewise, arguments about whether there is a binding legal mandate to institute decoupling miss the mark.<sup>9</sup> Whether or not there is a legal requirement to adopt decoupling under General Law §39-1-27.7 (d), this statutory language articulates an important principle that the Commission should follow. Adopting the proposed RDM would be consistent with this statutory language because “energy efficiency and conservation...is likely to cause under or over-recovery” of fixed costs necessitating a “mandatory rate adjustment clause” (*i.e.*, decoupling) to allow “full recovery”—and disallow over-recovery—“of reasonable and prudent overhead and fixed costs.” See R.I. Gen. Laws § 39-1-27.7 (d). Accordingly, Rhode Island law provides helpful guidance to the Commission—not a barrier—that provides support for the adoption of National Grid’s RDM.

**B. The Commission Should Reject the Division’s Flawed List of Arguments, and Should Embrace the Company’s Proposed Decoupling Mechanism.**

On pages 52 and 53 of its Brief, the Division lists seven allegedly “compelling” reasons for the rejection of Company’s decoupling mechanism. Because these arguments are far from compelling—indeed each is fundamentally flawed—the Commission should reject each and every argument and should embrace National Grid’s decoupling mechanism.

---

<sup>8</sup> ENE notes that the Company did recently proposed the expansion of its gas DSM programs through a nearly 50% increase in the DSM charge. See Energy Efficiency Program Plan, Settlement of the Parties, R.I.P.U.C. Docket 4000 at 17.

<sup>9</sup> See TEC-RI Brief at 16; OER Brief at 5.

The Division claims that the “‘disincentive’ the Company faces is illusory since conservation is mandated by State law.” See Division Brief at 52. However, the Division fails to explain exactly what the state law mandates. As explained in ENE’s brief, while state law does indeed appear to authorize the Company’s administration of utility programs, it does not set the level of investment, or the parameters of its programs. See ENE Brief at 14-15. As a result, the Company has great leeway in which to operate its programs and the Commission should approve the decoupling mechanism in order to align the Company’s incentives with the interests of its customers in reducing consumption. See id.

Next, the Division claims that “energy efficiency will be pursued by customers regardless of whether decoupling is adopted” and that the Company’s “advocacy of energy conservation will not dramatically alter customers’ energy usage.” See Division Brief at 53. The Division’s statement directly contradicts this Commission’s stated findings about the legislature’s authorization of the DSM programs, noting that “a new gas DSM program should further reduce natural gas consumption beyond the initiatives taken by ratepayers in the absence of specific DSM programs.” See Order No. 19024 at 17. In general, the Company’s gas energy efficiency programs are designed to encourage investments in energy efficiency that go beyond energy efficiency investments that would occur without the programs. See Response to Data Request DIV 7-2, DIV Ex. 16. As TEC-RI’s witness exclaimed, the Company’s gas DSM programs have been successful in saving Rhode Island ratepayers money. See Testimony of John Farley, Tr. 9/29/08 at 165:11-20. While some energy efficiency certainly will occur absent the Company’s DSM efforts, the Division ignores (and sometimes denies altogether) the important contributions utility-administered DSM programs can and do make to remove barriers to energy efficiency,

including cost barriers, perceived technology risks and absence of knowledge of efficiency opportunities. See DIV Ex. 16. Because the Division has failed to acknowledge the important role National Grid's programs have played in creating nearly 200,000 MMBTu in annual savings for its customers, the Commission should properly discount this anti-decoupling argument.

Despite the alarmist claims of the Division, adopting the Company's decoupling mechanism would in no way affect its incentives to prudently manage its costs; nor would it erode the regulatory power this Commission carries to ensure that National Grid's rates are just and reasonable. See Division Brief at 53. Decoupling does not guarantee profits and does not alter the current structure in which the Commission sets a revenue requirement including an allowed ROE. See Response to TEC-RI Data Request TEC-RI 1-53, TEC-RI Ex. 1-52; Testimony of James Simpson, Tr. 9/26/08 at 228:2-7; Farley Tr. 9/29/08 at 165:7-9; see also Tr. 8/27/08 at 59:12-20. Under the proposed RDM, as under today's rate structure, the Company maximizes its profits when it prudently manages its costs. See Simpson, Tr. 9/28/08 at 228:2-7. As a result, the Division's call for prudent cost management, while proper, is not a valid reason to reject the Company's decoupling proposal.

The Division's claim, on page 53 of its brief, that the Company's decoupling mechanism is not necessary because there are "already four forms of partial revenue decoupling" contained in the current rate structure fails to recognize the core purpose of decoupling—to eliminate the company's disincentive to encourage conservation and efficiency. See Simpson, NGrid Ex. 12 at 2:8-10. None of these four<sup>10</sup> mechanisms—singly or collectively—achieve this goal because they do not break the link between the Company's revenues and its gas sales. See Stavropoulos,

---

<sup>10</sup> The four mechanisms are (1) the WNA, (2) demand charges; (3) declining block rates; and (4) the use of a future test year. See Division Brief at 53, note 120.

Tr. 10/22/08 at 98:19-99:22; Oliver, Tr. 10/23/08 at 179:20-180:2. Under the current rate structure, one that includes these four mechanisms, the Company has the incentive to maximize its sales—and, by extension, its customers' bills—because, simply put, the more gas it sells, the more revenue it generates. Thus these “partial” decoupling mechanisms do not sever the link between the Company's revenues and its sales and therefore are not an adequate substitute for the proposed RDM.

Incentives for superior utility performance in energy efficiency programs do not supplant the need for decoupling which removes a disincentive. Cf. Division Brief at 53. Performance incentives are designed to reward the Company, creating an economic environment to spur aggressive utility implementation of efficiency, demand response, and other demand resource programs.<sup>11</sup> The value of incentives in achieving this type of goal is significantly and counterproductively diminished by the presence of a disincentive that reduces the Company's revenue when efficiency investments decrease gas usage. As a result, the Commission should reject the Division's claim that incentives negate the need for decoupling.

The rate classes subject to the Company's decoupling mechanism are large enough (in terms of numbers of customers) and homogenous enough (in terms of usage patterns) that the decoupling mechanism will not result in “inequitable results” as alleged by the Division (p.53). According to the Company's rate year data, the four rate classes included in the decoupling mechanism have the following customer counts: (1) residential non-heat: 27,110; (2) residential heating: 179,950; (3) small commercial and industrial: 18,589; (4) medium commercial and

---

<sup>11</sup> See Martin Kushler, Dan York and Patti White, *Aligning Utility Interests with Energy Efficiency Objectives: A Review of Recent Efforts at Decoupling and Performance Incentives*, American Council for an Energy-Efficient Economy, 8 (October 2006) (available at <http://www.aceee.org/pubs/u061.pdf?CFID=1902973&CFTOKEN=31285910> )

industrial: 4,517. See Attachment NG PCC-7 to the Direct Testimony of Peter C. Czekanski, NGrid Ex. 15. With customer counts in the thousands, averaging the revenue per customer to determine a decoupling baseline will not lead to inequitable distortions because under the Company's decoupling mechanism, as is the case under current rates, lower use customers within a rate class will pay less for distribution than higher use customers.

## II. CONCLUSION

For the reasons articulated above and in ENE's brief filed on November 6, 2008, the Commission should adopt National Grid's proposed full decoupling mechanism, as amended by the Company during this proceeding.

Respectfully submitted,

ENVIRONMENT NORTHEAST

By its attorneys,



---

Jeremy C. McDiarmid  
ENVIRONMENT NORTHEAST  
8 Beacon Street, Suite 415  
Boston, MA 02108  
617-742-0054  
[jmcdiarmid@env-ne.org](mailto:jmcdiarmid@env-ne.org)

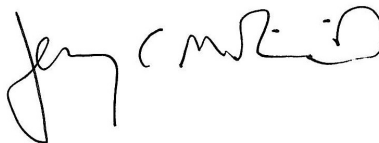
Roger E. Koontz  
ENVIRONMENT NORTHEAST  
15 High Street  
Chester, CT 06412  
[rkoontz@env-ne.org](mailto:rkoontz@env-ne.org)

W. Mark Russo  
FERRUCCI RUSSO P.C.  
55 Pine St.  
Providence, RI 02903  
[mrusso@frlawri.com](mailto:mrusso@frlawri.com)

Dated: November 10, 2008

CERTIFICATE OF SERVICE

I hereby certify that on November 10, 2008, I caused a true copy of the foregoing document to be delivered either by first class mail or by electronic mail to the Docket 3943 Service List.

A handwritten signature in black ink, appearing to read 'Jeremy C. McDiarmid', written in a cursive style.

---

Jeremy C. McDiarmid