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November 6, 2008

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

Re: National Grid Gas – Docket No. 3943
Post-Hearing Brief submitted on behalf of Intervenor The Energy Council of Rhode Island (TEC-RI).

Dear Luly:

As you know, this office represents The Energy Council of Rhode Island (TEC-RI). Enclosed for filing in this matter are an original and seven copies of TEC-RI's Post-Hearing Brief.

If you have any questions, please feel free to call.

Very truly yours,

Mike

Michael R. McElroy

MRMc:tmg
cc: Service List

TEC-RI/37436/Massaro5

BEFORE THE

STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS

PUBLIC UTILITIES COMMISSION

IN RE: NATIONAL GRID RHODE ISLAND GAS	: : :	REQUEST FOR A CHANGE OF GAS DISTRIBUTION RATES DOCKET 3943

POST-HEARING BRIEF
OF
THE ENERGY COUNCIL OF RHODE ISLAND

Respectfully submitted,
The Energy Council of Rhode Island
By its attorney

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November 6, 2008

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	:	DOCKET 3943

POST-HEARING BRIEF OF THE ENERGY COUNCIL OF RHODE ISLAND

INTRODUCTION

The Energy Council of Rhode Island (TEC-RI) appreciates this opportunity to address the Public Utilities Commission in the matter of Docket 3943, the request by National Grid for a change in its gas distribution rates.

In this post-hearing brief, TEC-RI will address the issues of concern to TEC-RI that remain in dispute. These include:

1. The Non-Firm tariff.
2. Revenue Decoupling.
3. The Distribution Adjustment Charge.
4. The Low-Income Discount.
5. The Gas Cost Recovery (GCR) classes.

I. THE NON-FIRM TARIFF

A. Positions of the Parties

1. *Company position*: Maintain value of service pricing, with a cap set at 150% of what (in the Company's judgment) is a cost of service based rate for firm customers; eliminate non-firm sales tariff. [1]

[1] The non-firm transportation and sales tariffs are rate options which are made available to non-residential customers of a specified size with dual fuel capability. In practice they are subscribed to almost exclusively by Large and Extra Large gas customers. Non-firm transportation service is a distribution only service where the customer buys its gas from a gas marketer and the Company distributes it. Non-firm sales service is presently offered for customers who wish to purchase the gas as well as distribution services from the Company. The Company is proposing to eliminate this non-firm sales tariff.

2. *SilentSherpa position*: Set the non-firm tariff according to a marginal cost of service analysis.

3. *Rhode Island Hospital position*: Set the non-firm tariff at an appropriate discount to firm service rates based on a reasonable methodology for making a contribution to the distribution system above the marginal cost of service. Based on available information at the time of the hearings, Rhode Island Hospital determined that a 40% discount off firm rates would be appropriate.

4. *Division position*: Set the non-firm tariff at an appropriate a discount to firm service rates based on an embedded cost of service study

5. *TEC-RI position*: (a) Set the non firm transportation rates at a fixed 40% discount to firm rates in such a way as to generate $1.8 million of revenue with the 3.1 million dekatherms of volumes the Company used in its most recent cost of service study [dated November 5, 2008 and submitted as part of NGrid Exhibit 44]. This rate was calculated by TEC-RI based on the best available information concerning what price point between marginal cost and embedded cost most fairly represents the benefits to the distribution system of non-firm customers being available for interruption, (which allows the Company to avoid incurring any costs related to adding capacity to the system in order to serve non-firm customers); (b) retain the non-firm sales tariff until the Company determines that no current non-firm customer using non-firm sales will be harmed by its elimination, and (c) require the Company to file transparent rules for interruption and restoration of service.

B. Arguments in Support of TEC-RI's Proposed Non-Firm Transportation Rate Discount

1. *Non-firm customers are not opportunists.* There are three good reasons why non-firm customers have remained on the non-firm tariff despite the recent unfavorable economics.

First, many of them are TEC-RI members and/or clients of SilentSherpa, and therefore have been aware of the dockets in which the Commission has been considering the non-firm issue. They hold out hope that the Commission will see the inequities inherent in the current non-firm tariff and act to fix it.

Second, the firm tariff includes an expensive demand charge, but the non-firm tariff does not.

Third, as the facts have come out in this case, it has become clear that a sizable share of the remaining non-firm customers cannot be served on a firm basis by the Company, so it is not possible for these customers to switch from non-firm to firm. In particular, Company response to Record Request DIV-6 shows that of the current 32 non-firm customers, <u>the Company cannot offer firm service to 12 of them</u>.

2. *The non-firm customers receive a lower quality of service than the firm customers do.*

The record shows [Company response to Division data request DIV 5-4, now DIV Exhibit 49] that non-firm customers are interrupted frequently in the winter time.

Also, Company response to Record Request DIV-8 shows that the Company does not maintain system pressure for non-firm customers in the winter season.

3. *The Company was ordered to include a cost of service based rate and did not do so.*

The arguments establishing that the Company did not include a cost-based non-firm rate in its filing (in violation of the directive of this Commission) appear in the Farley[2], Oliver[3] and Grasso[4] direct testimonies and those will not be rehashed here.

Perhaps the Company's own cost of service witness, Mr. Heintz, said it best when he observed that not submitting an alternative cost of service based rate design for non-firm service customers as part of its fully allocated cost of service study, was in retrospect "perhaps not the wisest decision ever made, and we've attempted to correct it in our response to Division 5-53." [transcript, October 20, 2008, page 19, lines 12-14.]

This, however, is water under the bridge. What the Commission must now decide is what to do about the non-firm tariff going forward.

4. *TEC-RI respectfully submits that the evidentiary record supports the following*:

a. Maximizing the revenues collected from non-firm customers is contrary to sound ratemaking.

The reason that regulated utility distribution rates are not set this way is because the utility is a monopoly. When it comes to purchasing natural gas distribution services, there is <u>no choice</u> except the utility. Therefore, it is unjust and unreasonable to set prices for that service using the principle of maximizing value. Even the Company acknowledges this, because their own proposal includes a cap.

b. There is ample evidence in the case that cost of service principles should guide the design of the non-firm rate.

Every party to the case has taken a position on non-firm that incorporates at least one cost of service principle.

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[2] Direct Testimony of Mr. Farley, TEC-RI Exhibit 1, page 6 line 15 through page 9 line 10.
[3] Direct Testimony of Mr. Oliver, DIV Exhibit 3, page 58 line 5 through page 59 line 21.
[4] Direct Testimony of Mr. Grasso, SilentSherpa Exhibit 1, page 6 line 63 through page 7 line 72.

c. There are two issues that the Commission must decide regarding the non-firm tariff:

1. Given the available information in the record, what cost of service indicators should be used to guide the ratemaking work for non-firm?

2. Given this cost of service data, what just and reasonable rate can be set for non-firm service?

Experts provided two different approaches to determine the cost of service for the non-firm class: (1) a marginal cost of service analysis [Grasso, DeMetro], and (2) an embedded cost of service analysis [Heintz, Oliver, DeMetro].

It is not disputed that a marginal cost of service analysis will result in less cost being allocated to the non-firm class than an embedded cost of service analysis.

The Company includes a floor in its proposed non-firm rates. It therefore can be reasonably inferred that this floor is a good proxy for the marginal cost of service, since the Company would be losing money if it charged below the incremental costs it incurs to provide service. These floor values are 10 cents per dekatherm in the summer and 16 cents per dekatherm in the winter. However, the embedded cost of service approach results in a per unit cost of 92 cents per dekatherm.[5]

TEC-RI respectfully submits that the record in this case therefore supports the conclusion that the actual cost of service is somewhere in between the floor figures (the lowest) and the embedded costs figures (the highest). The question is where in between to set the non-firm rate.

The ability to interrupt non-firm customers provides undisputed value to the system. Moreover, the non-firm customers incur costs to maintain alternate fuel capability, both equipment and operating costs.

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[5] Based on the November 5, 2008 cost of service study submitted by the Company as part of NGrid Exhibit 44.

The Company designs its system to serve the firm loads. When doing design day analysis for sizing the system, the Company assumes that the non-firm customers are interrupted (i.e., not using gas) on the design peak day.

Yet, the non-firm customers use the system when they are consuming natural gas.

TEC-RI submits that the key to determining the non-firm cost of service is determining what kind of demand allocation the non-firm customers should receive.

The Company's embedded cost of service analysis uses the same allocation for non-firm customers as for firm customers. This is clearly not a fair or reasonable reflection of cost causation.

Zero could theoretically be used, but that would result in the non-firm customer making no contribution at all to fixed distribution system costs, and that is not fair or reasonable.

The Company incurs significant costs related to meeting the aggregate peak design day capacity requirements of customers entitled to service on the peak day.

These demand or capacity related costs are associated with plant that is designed, installed and operated to meet maximum hourly or daily gas flow requirements, such as transmission and distribution mains, or more localized distribution facilities which are designed to satisfy individual customer maximum demands. [Direct testimony of David Heintz, NGrid Exhibit 14, page 6]. These costs are classified as "demand" in the Company's cost of service.

The key to determining the proper cost of service is determining what kind of demand cost allocation (if any) the non-firm customers should receive.

The Company's embedded cost of service analysis uses the same allocation method for non-firm customers as for firm customers. As a result, the cost of service analysis allocates a proportionate share of these demand costs, even though as the record plainly shows, the non-firm customer does not cause the utility to incur this category of cost!

This is clearly not an accurate reflection of cost causation. In fact, witnesses for both the Company and other parties testified to the fact that non-firm customers, by virtue of the fact that they can be and are interrupted on days where capacity or other operating factors are constrained, impose very little demand costs on the system.

Mr. Czekanski, the Company's witness, stated in his rebuttal testimony that:

> "This result occurs largely because the actual 'cost' of providing non-firm service is minimal. Since the system is constructed and maintained to ensure uninterrupted service to firm customers on a year-round basis (i.e., through the peak winter periods), distribution capacity is available in the off-peak periods for use by non-firm customers at little or no additional cost." [Mr. Czekanski, Rebuttal Testimony, NGrid Exhibit 16, Page 5 of 23, lines 6-10.]

Mr. DeMetro, Rhode Island Hospital's expert witness, testified:

> "the direct costs and marginal costs are the only real costs that are caused by non-firm customers because the company, in its planning, does not add capacity to its distribution system in order to serve non-firm customers." [transcript, October 22, 2008, p 206, lines 3-7.]

Mr. Stavropoulos, the Company's executive vice-president responsible for U.S. gas distribution, put it this way:

> "We design rates that are expected to cover the full cost of service. So essentially the firm customers have paid for all the firm capacity that we provide and make available." [transcript, October 22, 2008, page 19 line 22 through page 20 line 1.]

Mr. Oliver, the Divisions' witness, correctly pointed out in his surrebuttal that Mr. Czekanski's statement and the Company's cost of service allocation do not agree [Surrebuttal page 30, lines 3-5, and page 33 lines14-22, page 34 lines 1-2]. And indeed, that correctly frames the issue at hand, which is to reconcile that conflict between real incremental costs and allocated embedded costs.

There is value gained from curtailing service to non-firm customers during peak periods, but the Company has not accounted for this value in its cost of service analysis.

Therefore, the filed cost of service study must be adjusted to reflect the real situation with respect to cost causation. Thereupon, some modicum of judgment must be applied to end up with a resulting non-firm rate that is fair and equitable.

Given limitations of time and data inherent in such factors as parties receiving the definitive cost of service study only one day before briefs are due, the simplest and most straightforward way to figure this out is to simply use a factor of 50% of the demand costs. That results in a cost of service for the non-firm class (as modeled by the Company, with approximately 3.1 million dekatherms of usage) of about $1.8 million.

To test the reasonableness of this result, TEC-RI conducted an alternative calculation using a proxy method for determining the value to the system of interrupting non-firm customers during peak conditions. This alternative calculation resulted in a cost of service for the non-firm class of $1.3 million.

Company response to Record Request DIV-7 shows that the incremental costs that are avoided by keeping these 12 customers on non-firm service rather than firm service represent an avoided expenditure to the Company of at least $9-10 million.

This response therefore suggests that the system is deficient by at least $9 to $10 million in its ability to provide firm service to the interruptible non-firm class of customers. In other words, National Grid cannot provide firm service to the interruptible non-firm class of customers without making this investment.

TEC-RI used this $9 million to $10 million avoided investment as a proxy measure of the difference in distribution system cost between interruptible non-firm service and firm service.

The revenue requirement that would be associated with the low end of this investment is $1,588,255, using the same analysis that the Company relied on to determine the revenue requirement impact for its incremental ARP spending (as provided in Attachment NG-MDL-5 to the direct testimony of Company witness Laflamme, NGrid Exhibit 3).

Therefore, making this adjustment to the fully allocated distribution costs that National Grid's cost of service study has allocated to interruptible non-firm customers, as if they were firm customers, results in a cost of service of $1,268,982 for the non-firm class.

Accordingly, TEC-RI recommends that the Commission adopt fair and reasonable non-firm transportation rates that provide a 40% discount off firm rates. That produces $1.8 million in revenue given the volumes the Company used in its November 5, 2008 cost of service study. Even though the Company bears the burden of proof in this matter, the Company failed to update its Exhibit 36 to be consistent with its updated cost of service study, so other parties do not have the necessary tool in the record to be definitive concerning what a given level of cost of service equates to in terms of a discount off firm service rates. However, by using a simple proportional adjustment based on volumes, TEC-RI estimates that this $1.8 million cost of service equates to approximately a 40% discount off firm rates.[6]

In the alternative, if the Commission feels that it would like to retain some form of value of service pricing, then TEC-RI respectfully suggests that non-firm customers be given the option of choosing between the 40% discount off firm service or an appropriately structured value of service offering.

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[6] Attached to this brief as Exhibit 1 is a diagram TEC-RI developed to illustrate the process TEC-RI used to determine fair and reasonable non-firm rates.

II. REVENUE DECOUPLING

A. The Large and Extra Large rate classes should be excluded from any Revenue Per Customer (RPC) decoupling.

No party is opposed to this exclusion, and several parties (including the Company), have argued in favor of this.

TEC-RI proposed to exclude the Large and Extra Large rate classes from the Company's revenue per customer decoupling approach because the RPC method is inappropriate for rate classes with small numbers of customers and large variability in revenues from one customer to the next (i.e., heterogeneity).

The reason why this makes sense was summarized succinctly by the Company's decoupling witness, Mr. Simpson:

> "If you gain a customer or lose a customer in those classes, it could affect the calculation of the decoupling mechanism in a way that doesn't bear any relationship to customer conservation, which is the intended focus of decoupling mechanisms." [transcript, September 12, 2008, page 10, lines 5-10]

During the hearings, when the Company introduced its witness on decoupling, Mr. Simpson, the Company modified its decoupling proposal to adopt the TEC-RI proposal in full.

No party has expressed any opposition to this modification. To the contrary, the Division's witness Mr. Oliver, in his direct testimony, identified this as a problem that needed to be rectified (Oliver, Direct Testimony, DIV Exhibit 3, page 17, lines 12-18):

> "More importantly I question the appropriateness of the application of the Company's proposed RPC mechanism to any class which has (1) a relatively small number of customers and (2) significant variation in levels of gas use among the customers in the class. Where the actions of either one customer or a comparatively small number of customers within a rate class can have a noticeable impact on the actual average use per customer for a rate class, applications of the proposed RPC mechanism are clearly inappropriate."

This is the precise reason why TEC-RI recommended excluding the Large and Extra Large rate classes, and the precise reason why the Company modified its decoupling proposal to do exactly that.

During the hearings, there was some concern raised about whether exempting a class from the Company revenue decoupling plan would result in cross-subsidies between classes.

Every witness, when asked directly about this, answered that no cross-subsidy would result (because the RPC decoupling mechanism is specific to each class).

Typical was this exchange between Commissioner Holbrook and the Company's decoupling witness, Mr. Simpson [transcript, September 26, 2008, pages 72-73]:

> "COMMISSIONER HOLBROOK: If I could ask a question. Does the exclusion of a particular class from decoupling have an effect on rates paid by those that are decoupled?
>
> THE WITNESS: No, it would have no effect whatsoever because the decoupling mechanism as we have proposed it is specific to each class. There's no spillover from any class to any other class regardless of whether the mechanism applies to that class or not."

Later on, Mr. Simpson further explained that if a class is not in the decoupling mechanism and that class conserves, it is the Company and the Company shareholders that suffer the loss of that revenue, not the other classes who are in decoupling. [transcript, September 26, 2008, pages 73-74]

Mr. Farley, TEC-RI's witness, further explained:

> "As decoupling works, every class is handled separately, and so it's only the revenue per customer changes in the specific class that affect the decoupling payments for that class." [transcript, September 29, 2008, pages 190-191.]

Cross-examination by the attorney for the Division [a party whose own direct testimony argues that the Company's RPC methodology is inappropriate for classes like the Large and

Extra Large classes] attempted to tease out of Mr. Farley's testimony the possibility of cross-subsidization using a hypothetical on top of a hypothetical on top of a hypothetical!

The first hypothetical was five rate classes that produced revenues of ten dollars each. The second hypothetical was that the decoupling mechanism caused all five classes to pay an additional dollar, so that they paid $11 each. The third hypothetical was that two classes are exempted, yet nevertheless the Company somehow over earned so the earnings sharing mechanism kicks in such that customers receive a refund.

All this really proves is that savvy attorneys and consultants, given the opportunity to do so, can stretch hypotheticals far enough to say just about anything.

Setting aside the astronomically small combined probability that all of these hypothetical situations could occur in a single year, the fact is that the potential for this situation (whereby a class that did not increase its revenues still would share in earnings sharing) is a feature of the earnings sharing mechanism – NOT the decoupling mechanism. If the Commission seriously thinks this is an outcome it needs to protect against, the solution is simple – adjust the earnings sharing mechanism accordingly.

Mr. Simpson, the Company's witness, confirmed the fact that:

> "applying decoupling mechanism to the largest customer classes – that is, the commercial industrial large and extra-large classes – was not the mainstream decoupling approach across the United States . . . . most utilities that have implemented decoupling have implemented it for residential and small and medium commercial customers." [transcript, September 12, 2008, page 9, lines 5-13.]

No party in this case opposes this modification to exempt the Large and Extra Large classes; several parties (and the Company) endorse it. No party has made an argument for keeping the Large and Extra Large classes in the decoupling mechanism. Therefore the record is clear that the Large and Extra Large customer classes should be excluded from RPC decoupling in the event that it is implemented.[7]

B. Low Income Exclusion

The Attorney General has proposed to exclude the new Low Income rate class from decoupling. The Company has modified its revenue decoupling proposal to also exclude the Low Income class. TEC-RI does not oppose this

C. RPC Decoupling

TEC-RI is joined by the Division and the Wiley Center in opposing the Company's overall RPC decoupling proposal in general.[8] The Company, the Conservation Law Foundation, and Environment Northeast support the Company's proposal.

Decoupling is a major departure from traditional ratemaking, and it can have a very significant financial impact on ratepayers, as evidenced by the Company's response to TEC-RI data request 1-7.

Also, Mr. Simpson, the Company's decoupling witness, confirmed concerning the cumulative net effect of decoupling, that had it been in effect over the past four years:

> "If the decoupling mechanism had been in effect for all rate classes the net effect would have been the $34 million that Mr. Farley calculates." [transcript, September 26, 2008, Page 100, lines 7-10.]

Therefore, the bar needs to be set very high for approving the Company's revenue decoupling mechanism.

[7] In fact, the Company has formally modified its decoupling request to exclude the Large and Extra Large classes, so the Company is no longer asking for Commission approval to apply decoupling to these classes.
[8] TEC-RI also assumes, based on their questioning of witnesses at the hearing, that the Attorney General and the Office of Energy Resources oppose the decoupling proposal.

TEC-RI respectfully submits, for the reasons set forth in the testimony of Farley and Oliver, that the Commission should reject the Company's overall revenue decoupling proposal.[9]

1. The Company has not proven its case.

The Company's case for decoupling stands or falls on the merits (or lack thereof) of a simple premise: *If decoupling, then more energy efficiency.*

If we give the Company decoupling, will we get more energy efficiency—more efficiency that clearly resulted from decoupling and not any other factor?

The record of this case is clear: the Company has not proven this efficiency case for decoupling. Tellingly, they did not even make any attempt to prove this case.

There is not one piece of evidence provided by any party in this case that supports this very simple and absolutely critical syllogism: If decoupling, then more energy efficiency.

This could have been shown in two ways: (1) directly, and (2) indirectly.

The direct approach would have been to have included a new, substantial shareholder contribution to new energy efficiency programs and initiatives in this rate case, programs and initiatives that are in addition to the statutory programs paid for by ratepayers with funds stipulated by law and approved separately by the Commission.

However, there are no new energy efficiency proposals by the Company in this case.

The indirect approach would have been to have presented studies from other jurisdictions which demonstrated that utilities with decoupling mechanisms produce more energy efficiency than they would have without decoupling, that certain successful energy efficiency programs are a direct result of decoupling, and that jurisdictions with decoupling routinely outperform jurisdictions without decoupling in the area of energy efficiency, all after controlling for other explanations and drivers.

[9] Rejection of the entire proposal would make the Large, Extra Large, and Low Income exclusions moot.

The record contains nothing of the sort.

Therefore, there is not one single shred of evidence in the record of this case that purports to demonstrate a connection between decoupling and more energy efficiency.

This despite the Company's argument that decoupling is tried and tested. If decoupling is tried and tested, why was there not one study submitted showing the effectiveness of decoupling in achieving higher levels of energy efficiency than would be achieved without decoupling?

Rhode Island is <u>already</u> #1 in the country with the lowest energy use per capita, according to the Energy Information Administration—lower than California! And we are also in the top five to ten states in terms of utility energy efficiency spending per capita.

We accomplished all this <u>without</u> decoupling.

2. Does the Company need it?

Perhaps the best evidence that the Company does not need decoupling to have a reasonable opportunity to earn its revenue requirement lies in the Company's own actions in this case. The Company has shown that it is confident that it will have a reasonable opportunity to earn its revenue requirement <u>without</u> revenue decoupling.

How can that possibly be asserted?

Simple: on September 3, 2008, the Company asked the Commission for permission <u>to withdraw</u> its proposal to implement revenue decoupling! It is highly unlikely that the Company would have done that if it needed revenue decoupling to earn its revenue requirement between now and the next rate case.

3. *If not decoupling, then what?*

The fact is that revenue decoupling makes automatic adjustments on the revenue side <u>without also considering changes on the expense side</u>.

The best mechanism to ensure that rates are just and reasonable while allowing the Company a reasonable opportunity to earn its revenue requirement is a rate case, because a rate case looks at both revenues <u>and expenses</u>.

4. There is no requirement in law for full gas revenue decoupling as sought by the Company in this docket.

R.I.G.L. § 39-2-37.7 (a)(2)(d) has been cited and so is recited here:

> "d) If the commission shall determine that the implementation of system reliability and energy efficiency and conservation procurement has caused or is likely to cause under or over-recovery of overhead and fixed costs of the company implementing said procurement, the commission may establish a mandatory rate adjustment clause for the company so affected in order to provide for full recovery of reasonable and prudent overhead and fixed costs."

R.I.G.L. § 39-1-27.7(a)(2)(d) does not apply to gas decoupling for three reasons:

First, this law by its express terms (see R.I.G.L. 39-1-27.7) addresses <u>electrical</u> energy needs, not natural gas needs. Therefore, the law applies only to electric distribution companies, not gas distribution companies.

Second, the law permits, but does not require, adjustments.

Third, the adjustments are permitted only to address under-recovery caused by a very specific factor, namely electric utility procurement of system reliability, energy efficiency and conservation. The law does not call for general revenue per customer decoupling (which is what is proposed here), where rates are adjusted <u>regardless of the cause</u> of the change in revenues. The law allows for a limited mechanism to address revenue shortfalls related solely to the direct impacts of energy efficiency and conservation programs. Plus, it addresses electric energy efficiency programs, not gas energy efficiency programs.

5. Is decoupling good for ratepayers?

The Company's proposed revenue per customer decoupling mechanism protects the Company from reductions in revenue per customer no matter what the reason is for the reduction. It is not limited to reductions from conservation.

The Company and other parties advocating this change to decoupling have the burden of proof of demonstrating that it is beneficial to ratepayers. The argument has been made that decoupling will result in increased levels of energy efficiency for Rhode Island ratepayers, courtesy of the increased efforts of the Company.

However, the record in this case provides absolutely no basis for concluding that this will happen.

Where are the new energy efficiency proposals in this docket? They simply do not exist.

Where is the proof that decoupling anywhere in the country has achieved what the proponents claim it will achieve? There is not a shred of evidence in this case that it will do so.

We certainly heard quite a bit of high minded rhetoric, and even one or two vague promises. But this was not backed up by <u>proof</u> that decoupling actually <u>works</u>, nor by any <u>specific proposals</u> to try to make it work for Rhode Island ratepayers. In fact, there is <u>no</u> solid evidence that by approving decoupling the Commission will have secured higher levels of energy efficiency for Rhode Island ratepayers.

The Company's decoupling mechanism shifts risk from the Company to the ratepayer, but does not compensate the ratepayer in any way for assuming these new risks.

The decoupling plan amounts to an insurance policy granted to the Company by the ratepayers, only the Company doesn't have to pay the premiums on the policy!

The members of TEC-RI run enterprises that face competitive pressures. TEC-RI members face the risk that demand for their products and services will decline. They also have fixed costs that do not vary according to demand for their products and services. Energy is one of those fixed overhead costs!

Gas distribution infrastructure is not the only vital infrastructure in our state. Our hospitals are part of the vital infrastructure for our state. Our universities are part of the vital infrastructure for our state. Our manufacturing capacity, which is being eroded little by little year by year – that capacity is part of the vital infrastructure in our state.

TEC-RI has had the sad task over the past ten years of saying goodbye to members who went out of business in this state. No one came to their rescue with a guaranteed Revenue Per Customer plan. That lost productivity, capacity, and employment was vital infrastructure too. It's one of the reasons that right now Rhode Island has the highest unemployment rate in the United States.

This decoupling scheme takes risk inherent in the cost of doing business that utilities have borne for a hundred years, and now asks to transfer that risk to its customers. The ratepayers are being asked to give the Company an insurance policy. What exactly do the ratepayers get in return?

The risk is not symmetric. When the economy turns bad, like it is right now, and revenues per customer go down, the ratepayers pay more. And it happens at the worst possible time, when things are tight.

When the price of natural gas goes up and hits customer bills, and customers conserve, this plan asks the customers to pay more because of it. And it happens at the worst possible time, when prices are high.

These are real hits, and it amounts to the people and businesses of Rhode Island absorbing risk for the Company.

The bottom line is that the Company's proposed decoupling mechanism is not in the best interest of ratepayers. The Company and other parties in favor of decoupling have failed to meet the burden of proof that decoupling will bring additional energy efficiency over and above what would otherwise occur. The Company does not need decoupling to have a reasonable opportunity to earn its revenue requirement. The Commission is not required by law to implement revenue decoupling for this gas utility.

Therefore, after full consideration of the evidence and arguments contained in this case, TEC-RI respectfully appeals to this Commission to deny the Company's request to institute its revenue decoupling mechanism.

III. THE DISTRIBUTION ADJUSTMENT CHARGE (DAC)

TEC-RI has not taken a position on any of the specific items in the Company's proposal relating to the DAC.

TEC-RI's issue regarding the DAC relates to the manner in which these adjustments are allocated to rate classes and collected.

TEC-RI respectfully submits that the DAC mechanism should be redesigned to allocate costs to rate classes using revenues (as a proxy for a cost of service allocation) rather than volumes when distributing revenue credits and debits to rate classes between rate cases.

Currently, the cost adjustments in the DAC are recovered using a volumetric charge – a per-therm charge.

However, the record in this case clearly demonstrates that the DAC costs being allocated generally do <u>not</u> vary with volume, but are predominantly fixed costs related to plant, equipment, and customer services.

Mr. Simpson, of Concentric Energy Advisors, (the Company's decoupling witness), conceded this in response to questioning from Commissioner Holbrook:

> "Commissioner Holbrook, I cannot think of a category of costs that the company has that literally is variable . . . Certainly the costs that correlate with usage are gas costs. But these are separate and removed and recovered through the gas cost recovery factor. So the kinds of costs that we are talking about here in this rate proceeding are fixed. . . . I have not seen any utility that's been able to quantify any major component of their revenue requirement that changes with usage." [transcript, September 12, 2008, pages 31-32]

And indeed, Mr. Simpson's statement was further corroborated by his fellow witness from Concentric, Mr. Heintz, who is the Company's cost of service witness. The schedules presented by Mr. Heintz in his direct testimony [NGrid Exhibit 14] prove that the volume or commodity-dependent costs are a miniscule proportion of both the functional rate base and the functional revenue requirements of the Company.

For example, Attachment NG-DAH-2 Page 2 of 4 titled "Class Cost of Service – Functional Rate Base" shows that the commodity portion of functional rate base is less than one percent (1%) ($754,554 / $285,241,462 = 0.0026).

Moreover, Attachment NG-DAH-2 Page 3 of 4 titled "Class Cost of Service – Functional Revenue Requirement" shows that the commodity portion of functional revenue requirement is less than five percent (5%) ($6,655,090 / $149,885,296 = 0.0444).

Therefore, since the cost categories which are addressed in the DAC are overwhelmingly fixed costs and not variable costs, collecting them with a volumetric per therm DAC means that costs are allocated to rate classes improperly.

Accordingly, TEC-RI's position is that the debits or credits in the DAC should be allocated to rate classes using class revenues for the period in question. The resulting amounts by class can then be collected from customers in each class by using a rate class-specific per therm DAC charge. This would more accurately reflect cost responsibility based on cost of service principles.

IV. THE LOW-INCOME DISCOUNT

The Company has proposed giving a 10% discount on the distribution rates paid by low-income customers, with recovery of the costs from all other customers. TEC-RI does not object to this.

However, TEC-RI (in John Farley's Direct Testimony) originally argued that the Company should assume 50% of the costs of the low income discount program. The Division's witness (Mr. Oliver) argued similarly that the Commission should lower the Company's claimed uncollectible accounts expense by 50% of the estimated costs of the offered rate discounts (Oliver, Direct Testimony, DIV Exhibit 3, page 72, lines 2-4). During the hearings, specifically the afternoon session of September 11, 2008, when introducing Company witness Czekanski, the Company stipulated to a $150,000 adjustment to their uncollectible expense regardless of the size of the low income discount that is ultimately approved by the Commission. The Division agreed that this resolved the issue for them. Similarly, the TEC-RI witness Farley (in his oral testimony) agreed that this stipulation resolved this issue for TEC-RI as well.

However, TEC-RI has a second issue concerning the Low Income Discount. TEC-RI objects to the method the Company has proposed to use to allocate the costs of the program to all other ratepayers.

In response to TEC-RI cross-examination, referring to Exhibit Wiley Center 6, Company witness Czekanski agreed that the Company uses different methods in New York and Massachusetts from the method it is proposing here for Rhode Island, and in fact the New York and Massachusetts methods result in lower costs being allocated to the commercial and industrial customers.

The fact is that the Low-Income discount is a rate that can only be taken advantage of by residential customers. Business customers that are having a difficult time in a tough economy cannot gain any relief from the discounted rate. Nevertheless, commercial and industrial customers are being asked to help pay for the residential low income discount. TEC-RI does not protest this, but simply asks the Commission to adopt an allocation method that does not penalize the business customers. Under the Company's proposed method, rates for the non-residential class will be increased <u>twice as much</u> as rates for the residential class to pay for the low income discount. [see Mr. Farley's Direct Testimony, TEC-RI Exhibit 1, page 39 line 2 through page 41 line 5.]

TEC-RI's request is for the Commission to adopt the same method that National Grid uses in Massachusetts to allocate low income costs to rate classes.[10]

The method that TEC-RI is recommending is to have the costs of the low-income discount allocated to all rate classes (excluding the low-income discount rate itself) using a rate base allocator, as the Company does in Massachusetts. The Company would apply the cost of the discount to each customer class based upon the class rate base as a percent of the total Company rate base.

[10] This is a change from TEC-RI's original proposal, made to accommodate ease of implementation by the Company.

This method would still have the business classes paying considerably more than would be the case were the Commission to order the Company to use the method for Rhode Island that it uses in New York, namely to allocate the costs on the basis of the number of customers in each rate class.

TEC-RI submits that the Massachusetts method is a fair and reasonable approach that has been approved by a neighboring Commission. Furthermore, the Company has stated that it has no objection or preference regarding an allocation methodology (articulated in its response to TEC-RI Record Request No. 1).

Finally, no party has voiced any objection to adopting this or any other allocation methodology, either in rebuttal/surrebuttal or in oral testimony before the Commission.

V. GAS COST RECOVERY (GCR) CALCULATION

The Company is proposing to reduce the number of Gas Cost Recovery (GCR) rates from six (6) to two (2) for firm sales rate customers.

TEC-RI asks the Commission to keep the GCR rates at the current six. Reducing the GCR rates from six to two would be a significant and ill-advised step away from true cost of service pricing.

The Division agreed with the Company's recommendation to reduce the number of GCR rates because, in the words of witness Mr. Oliver, it " would not have significant adverse impacts on any class of customers." [Direct Testimony of Mr. Oliver, DIV Exhibit 3, page 73, lines 24-25.]

However, "significant" is in the eye of the beholder. It is very conceivable that this change could increase the GCR rates for certain classes by 10 cents a dekatherm or more.

Conceivably an increase of this magnitude or more could accrue to several classes –for example, Residential Heat, Small C&I, Medium C&I, Extra Large Low, and Extra Large High. The combined rate year sales volumes for these classes is 23,403,922 dekatherms, so this becomes a $2.3 million dollar issue, which TEC-RI believes is significant.

In fact, the Division is disputing revenue requirement amounts in this rate case that are less than $2.3 million.[11] Presumably they are doing so because they see the potential for significant adverse impacts on classes of customers.

Therefore, this change from six to two classes can have significant adverse impacts on certain classes of customers, and should be rejected.

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[11] For example:

Gas Marketing Program: $1.377 million;
Company pro forma adjustment to medical and dental: $907,000;
NGrid/Southern Union synergies: $897,000; and
Ngrid/Southern Union cost to achieve: $158,000.

CONCLUSION

For the reasons stated above, TEC-RI respectfully asks the Commission to do the following:

1. Non-Firm. Set the non-firm transportation tariff rates at a 40% discount to firm rates, which should produce $1.8 million in revenue for the volumes used by the Company in its November 5, 2008 cost of service study; retain the non-firm sales tariff pending an investigation of harmful effects of eliminating it; and order the Company to file transparent rules for interruption and restoration of service.

2. Decoupling. Reject the Company's RPC decoupling proposal, or in the alternative, exclude the Large and Extra Large classes (and the Low Income class) from decoupling.

3. DAC. Allocate the DAC debits or credits to rate classes using class revenues for the period in question.

4. Low Income Discount. Adopt the 10% Low Income Discount and the $150,000 uncollectable adjustment, but allocate the cost of this program to rate classes using National Grid's Massachusetts' method (i.e., a rate base allocator).

5. GCR. Retain the six (6) rate classes.

Respectfully submitted,
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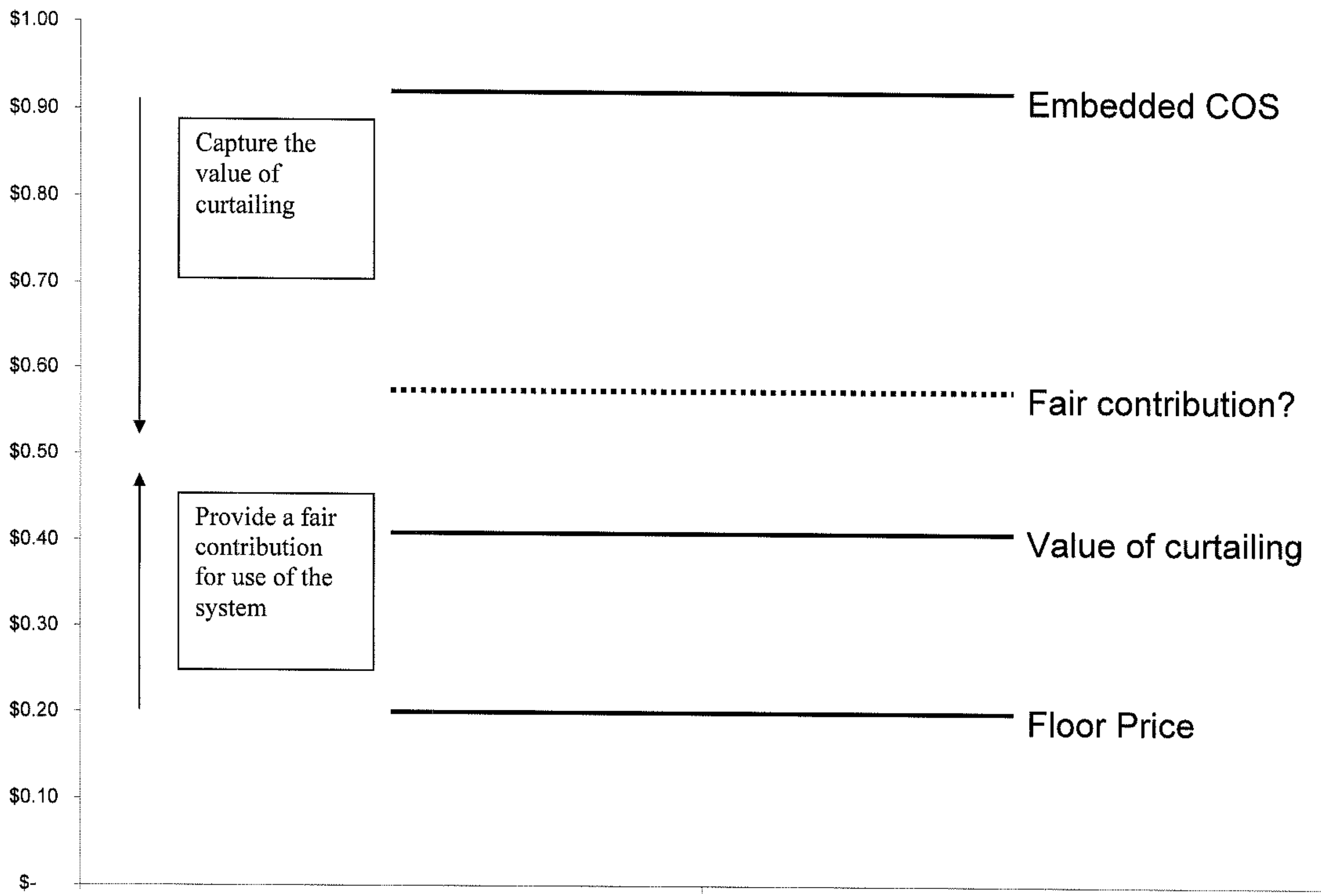
CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of November, 2008, I sent a true copy of the foregoing to the service list.

Theresa M. Gallo



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