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March 18, 2009

Ms. Luly Massaro, Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

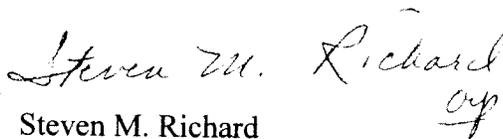
Re: Petition for Review Under R.I.G.L. § 39-1-30
City of Newport, et al

Dear Luly:

Enclosed please find an original and nine copies of a Petition for Review under R.I.G.L. § 39-1-30 filed against the City of Newport. I am also sending these documents to you electronically.

Please acknowledge receipt on the enclosed copy of this letter and on the Petition and return with my messenger. Thank you.

Very truly yours,


Steven M. Richard

SMR/crp
Enclosures

cc: Joseph Nicholson, Esq.
Christopher J. Behan, Esq.
John Spirito, Jr., Esq.
Cindy Wilson Frias, Esq.
Patricia Lucarelli, Esq.
Leo Wold, Esq.
Thomas Teehan, Esq.

6. The Ordinance requires curb-to-curb paving of any street in Newport that is excavated for the installation of utility facilities within five (5) years of “the construction, reconstruction, resurfacing or sealing” of the street.

7. On October 3, 2008, promptly after receiving notice of the Ordinance, National Grid filed a Petition for Review Under R.I.G.L. § 39-1-30 requesting that the Commission nullify or, in the alternative, modify the Ordinance. *See* Docket No. 3991. National Grid’s Petition is pending before the Commission.

8. On March 10, 2009, National Grid received a permit from the Office of Newport’s Director of Public Services, Defendant William Roccio, Jr., which relates to the utility’s emergency repair work on January 10, 2009 that fixed a broken main located on Almy Street. Director Riccio seeks to impose upon National Grid special paving requirements under the challenged Ordinance. (A copy of the permit is attached as Exhibit A).

9. On March 17, 2009, National Grid received a permit from Director Riccio, which relates to the utility’s replacement of a gas main on Merton Road. The Director seeks again to impose upon National Grid special paving requirements under the challenged Ordinance. (A copy of the permit is attached as Exhibit B).

10. On March 17, 2009, National Grid received a permit from Director Riccio, which relates to the utility’s emergency relay of gas service performed on September 25, 2008 on Lee Avenue. The Director seeks again to impose upon National Grid special paving requirements under the challenged Ordinance. (A copy of the permit is attached as Exhibit C).

11. The repaving demanded by Newport is structurally unnecessary.

12. Newport’s paving requirement imposes unwarranted and significant economic costs upon National Grid and its customers.

LEGAL CLAIMS

13. Newport's issuance of the permit pursuant to the Ordinance violates R.I. Gen. Laws § 45-6-1(a), which grants to cities and towns the power to adopt ordinances, inter alia, "to regulate the putting up and maintenance of telegraph and other wires and the appurtenances," but does not authorize Newport to impose unduly burdensome and improper costs and requirements relating to the locating, replacing, repairing, or installing underground gas or other utility lines.

14. Newport's repaving requirement interferes with the use of the public right-of-way which National Grid has the right to use in common with the public for its facilities. See R.I. Gen. Laws § 24-1-1.

15. R.I. Gen. Laws § 39-1-1(c) vests in the PUC "the exclusive power and authority to supervise, regulate, and make orders governing the conduct of companies offering to the public in intrastate commerce energy"

16. Newport's repaving requirement constitutes an unlawful exercise of authority and is preempted by state law. Town of East Greenwich v. O'Neil, 617 A.2d 104 (R.I. 1992).

17. Newport's repavement requirement is arbitrary, capricious, and serves no reasonable purpose.

18. Newport seeks to impose unreasonable and unjustified burdens, costs and requirements upon National Grid, its facilities, and its customers.

WHEREFORE, National Grid respectfully requests that the PUC, pursuant to R.I. Gen. Laws § 39-1-30,

- (a) review and nullify, Newport's efforts to impose an unreasonable repaving requirement upon National Grid; and

(b) issue such other and further relief as is within its power and is just and proper.

Respectfully submitted,

THE NARRAGANSETT ELECTRIC CO.
d/b/a NATIONAL GRID

By its attorneys,

Of Counsel:

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Dated: March 18, 2009

CERTIFICATION

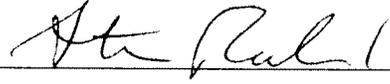
I hereby certify that a copy of this Petition for Review Under § 39-1-30 has been sent via First Class Mail and E-mail on this 18th day of March, 2009 to the following counsel:

Joseph Nicholson, Esq.
Christopher J. Behan, Esq.
Newport City Solicitor
Newport City Hall
45 Broadway
Newport, RI 02840

Cindy Wilson Frias, Esq.
Patricia Lucarelli, Esq.
Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

Leo Wold, Esq.
Assistant Attorney General
150 South Main Street
Providence, RI 02903

John Spirito, Jr., Esq.
Chief of Legal Services
Rhode Island Division of Public Utilities
89 Jefferson Boulevard
Warwick, RI 02888





City of Newport, RI

ENGINEERING DEPARTMENT

Permit No. 2009-0051

Date: 2/6/2009

Contractor National Grid is hereby authorized to open

Address 20 Almy Street
Street

for the purpose of Emergency repair to a broken main on 1/12/09 (4'x7') SPECIAL PAVING REQUIRED

as provided under Chapter 12.08 of the Newport City Ordinances.

Special Conditions

Fee: \$114.00 Paid? No

DigSafe Number

5052 2/10/09

Director of Public Services

PT

March 1, 2009



City of Newport, RI

ENGINEERING DEPARTMENT

Permit No. 2009-0109

Date: 3/12/2009

Contractor National Grid _____ is hereby authorized to open

Address Merton Road
Street

for the purpose of Replacement of gas main (1.5"x390") Special Paving Required

as provided under Chapter 12.08 of the Newport City Ordinances.

Special Conditions _____

Fee: \$392.50 Paid? No

DigSafe Number _____

SPK
Director of Public Services
Date: 3/12/09

MAR 19 2009



City of Newport, RI

ENGINEERING DEPARTMENT

Permit No. 2008-0419

Date: 12/12/2008

_____ is hereby authorized to open

Contractor National Grid _____

Address 10 Lee Avenue
Street

for the purpose of Emergency relay of gas service on 9/25/08 (3'x5' & 3'x5' s/w) SPECIAL PAVING REQUIRED

as provided under Chapter 12.08 of the Newport City Ordinances.

Special Conditions _____

Fee: \$145.00 Paid? No

DigSafe Number _____

[Signature]
Director of Public Services
Date: 12/16/08

[Initials]

MAR 17 2009