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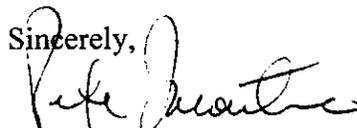
December 19, 2008

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

**Re: The Narragansett Electric Company d/b/a National Grid v. The City of Providence, et al.**

Dear Luly:

I am enclosing an original and 10 copies of a Petition for Review Under R.I.G.L. § 39-1-30 for filing in the above-reference matter, related to the Ordinance which the Providence City Council enacted on December 12, 2008.

Sincerely,  
  
Peter V. Lacouture

PVL/lco  
Enclosures

cc: Adrienne G. Southgate, Esq.  
Patricia S. Lucarelli, Esq.  
John Spirito, Jr., Esq.  
Leo J. Wold, Esq.  
Cynthia Wilson-Frias, Esq.

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RIPUBLICAN PUBLIC COMPANY

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION

THE NARRAGANSETT ELECTRIC :  
COMPANY d/b/a NATIONAL GRID, :  
Plaintiff, :

v. :

Docket No. \_\_\_\_\_

THE CITY OF PROVIDENCE; and SETH :  
YURDIN; CLIFF WOOD; KEVIN :  
JACKSON; NICHOLAS J. NARDUCCI, :  
JR.; MICHAEL A. SOLOMON; JOSEPH :  
DELUCA; JOHN J. IGLIOZZI; LEON F. :  
TEJADA; MIGUEL LUNA; LUIS A. :  
APONTE; BALBINA A. YOUNG; :  
TERRENCE HASSETT; JOHN J. :  
LOMBARDI; PETER S. MANCINI; :  
JOSEPHINE DIRUZZO, in their :  
official capacities as members of the :  
Providence City Council; :  
Defendants. :

**PETITION FOR REVIEW UNDER R.I.G.L. § 39-1-30**

1. The Narragansett Electric Company d/b/a National Grid (“National Grid”) brings this Petition under R.I. Gen. Laws § 39-1-30 and Rule 1.10 of the Public Utilities Commission’s (“PUC”) Rules of Practice and Procedure seeking review and nullification of recent actions by the City of Providence acting through its City Council (“Providence” or “City”) “affecting the placing, erection, and maintenance” of National Grid’s underground and above-ground gas lines and/or gas or electric metering equipment.

**JURISDICTION AND FACTS**

2. National Grid is a Rhode Island chartered public utility under the supervision of the PUC.

3. National Grid serves approximately 245,000 natural gas customers in 33 towns and cities and approximately 475,000 electric customers in 38 towns and cities in Rhode Island.

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4. As a Rhode Island chartered public utility, National Grid has the right and franchise to provide natural gas and electric service to Rhode Island residents and install such equipment as is necessary to provide such service.

5. R.I. Gen. Laws § 39-1-30 provides, inter alia

Every ordinance enacted, or regulation promulgated by any town or city affecting the mode or manner of operation or the placing or maintenance of the plant and equipment of any company under the supervision of the commission, shall be subject to the right of appeal by any aggrieved party to the commission within ten (10) days from the enactment or promulgation. The commission, after a hearing, upon notice to all parties in interest, shall determine the matter giving consideration to its effect upon the public health, safety, welfare, comfort, and convenience.

6. On or about December 12, 2008, Providence, acting through its City Council, enacted an Ordinance Amending Ch. 23 of the Providence Code of Ordinances (Chapter 2008-48, the “Ordinance”), a copy of which is attached hereto as Ex. A.

7. Section 23-33 of the Ordinance prohibits “any utility company or affiliated company” from installing exterior meters, metering equipment or regulators on any residential structure without the prior signed and/or written consent of the property owner and provides that such consent “cannot be presumed from the property owner’s acceptance of gas, electrical, water, telecommunications or other utility services.”

8. Section 23-34 of the Ordinance vests the Providence Housing Court with jurisdiction to hear any violations of the written consent provisions of the Ordinance, and to impose fines upon any utility in violation of such provisions.

9. Section 23-35 of the Ordinance requires “any utility company or affiliated company” to submit a project plan to the City Department of Planning & Development before it

applies for or receives a permit to “alter, install, or upgrade equipment located upon or under any public street or sidewalk, or upon or under any private property.”

10. Section 23-35 provides that the City’s Department of Planning and Development, has thirty (30) days within which to make recommendations to the City Council regarding the project plan. The City Council is provided with another thirty (30) days to determine whether it will approve the plan. The imposition of this sixty (60) day waiting period will interfere with National Grid’s ability to provide service to its customers.

11. Section 23-35 provides no standards upon which the City Council or the City’s Department of Planning and Development must base an approval or denial of a project plan. Under the Ordinance, approval could be denied for any reason or no reason at all.

12. National Grid’s gas tariff, RIPUC NG No. 101, section 9.0, provides that “[a]ll meters, services and other gas equipment owned by the Company shall be and will remain the property of the Company . . . . Such property shall be installed at points most convenient for the Company’s access and service and in conformance with public regulations in force from time to time.”

13. National Grid’s electric tariff, RIPUC No. 1197, section 1, provides that “[t]he Customer shall wire to the point designated by the Company, at which point the Company will connect its facilities. In addition, the Customer’s facilities shall comply with any reasonable construction and equipment standards required by the Company for safe, reliable, and cost efficient service.”

14. National Grid’s electric tariff, RIPUC No. 1197, section 10, provides “[m]eters of either the indoor or outdoor type shall be installed by the Company at locations to be designated by the Company. The Company may at any time change any meter installed by it. The

Company may also change the location of any meter or change from an indoor type to an outdoor type, provided that the cost of the change shall be borne by the Company . . . .”

15. National Grid’s electric tariff, RIPUC No. 1197, section 26, provides that “[t]he Company has the right to place on a Customer’s property facilities to provide and meter electric service to the Customer.”

16. National Grid is in the process of converting gas service in some areas of Providence from a low-pressure system, to a high-pressure system, in order to continue meeting customer demands. It is also in the process of replacing cast-iron gas main. These types of projects will improve the reliability and/or integrity of gas service and allow National Grid to fulfill its obligations to provide safe, cost effective and reliable service to Providence customers.

17. In order to improve safety, National Grid is currently in the process of upgrading its gas service in some areas of Providence to replace high-pressure bare-steel inside services and to move those high-pressure services to the exterior of buildings.

18. Regulators and meters used in connection with a high-pressure gas system should be located on the exterior of buildings for several reasons:

i. Locating meters and regulators on the exterior of a structure will provide an additional level of protection against internal gas leaks.

ii. Exterior meters and regulators make it easier for National Grid and fire departments to turn off service to a burning building at the meter.

Discontinuing gas service at the meter is a standard procedure firefighters use before they enter a burning structure.

iii. Federal law mandates that National Grid inspect metering equipment every three (3) years to ensure no gas leaks are present and the metering equipment

is functioning property. Locating metering equipment on the exterior of residential structures will ensure that National Grid can comply with federal inspection requirements that promote public safety.

- iv. If metering equipment is located on the inside of a building, National Grid personnel must make arrangements with the homeowner and/or tenant of the premises in order to gain access to the equipment. Customer failure to comply with company requests for access often thwarts compliance with this federal inspection requirement. In addition, each property owner must make arrangements to be at home, or otherwise provide National Grid personnel access to the structure, each time the metering equipment requires inspection. This can be expensive, time consuming, and inconvenient for the property owner(s).

19. Electric meters must be located on the exterior of buildings for several reasons:

- i. Exterior meters make it easier for National Grid and fire departments to turn off service to a burning building at the meter.
- ii. If metering equipment is located on the inside of a building, National Grid personnel must make arrangements with the homeowner and/or tenant of the premises in order to gain access to the equipment. In addition, each property owner will need to make arrangements to be at home, or otherwise provide National Grid personnel access to the structure, each and every time the metering equipment requires inspection. This can be expensive, time consuming, and inconvenient for the property owner(s).

20. Locating electric and gas meters on the exterior of buildings will greatly reduce the chance that electricity or gas will be “diverted” or stolen by discouraging diversion and/or by making this theft easier to detect.

21. The diversion of gas or electricity can be a safety concern to the general public because the means by which the diversion is accomplished may present a risk of gas leaks or discharges, shock, fire or explosion. Locating meters on the exterior of a building will reduce the chance of electricity or gas theft, thereby reducing the safety concerns that accompany such diversion.

#### LEGAL CLAIMS

22. Providence’s actions violate 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 authorized Providence to impose unduly burdensome and improper costs and requirements relating to the locating, replacing, repairing, or installing gas or other utility facilities and/or gas or electric metering equipment.

23. 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 . . . .”

24. The Ordinance violates the provisions of National Grid’s gas and electric tariffs and is preempted by state and federal law. National Grid’s tariff provisions are controlling and may not be changed or otherwise nullified without PUC action.

25. The Ordinance provides no standards for the City’s Department of Planning and Development or the City Council to assess project plans and no basis for review of any resulting decisions.

26. Providence's attempts to regulate the installation of underground and above-ground utility facilities including metering equipment through a permitting process as provided in the Ordinance 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).

27. Providence's attempts to regulate the installation of underground and above-ground utility facilities including metering equipment is arbitrary, capricious, and serve no reasonable purpose.

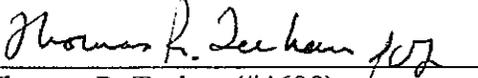
WHEREFORE, National Grid respectfully requests that the PUC, pursuant to R.I. Gen. Laws § 39-1-30,

- (a) review and nullify Providence's efforts to impose unreasonable terms, requirements and administrative burdens upon National Grid in connection with Ordinance §§ 23-33 through 23-35; 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,



Thomas R. Teehan (#4698)

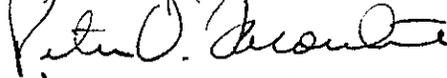
National Grid

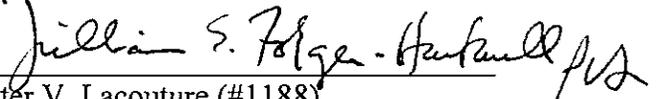
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Dated: December 19, 2008

CERTIFICATION

I hereby certify that a copy of this Petition for Review Under § 39-1-30 has been sent via first class mail and by email on this 19<sup>th</sup> day of December, 2008 to the following counsel:

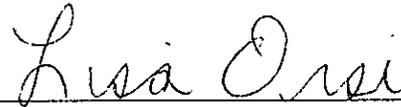
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