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March 3, 2009

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

Re: National Grid v. City of Providence – Petition for Review Pursuant to R.I.G.L. § 39-1-30
Docket No. 4028

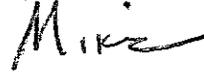
Dear Luly:

As you know, this office represents Providence Water Supply Board (Providence Water).

Enclosed for filing in this matter are an original and nine copies of a motion on behalf of Providence Water to intervene in this matter as a full party pursuant to the procedural schedule established in this docket on February 13, 2009.

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

Very truly yours,



Michael R. McElroy

MRMc:tmg

cc: Pamela Marchand, P.E.
Boyce Spinelli
Michael Russo, P.E.
Paul Gadoury, P.E.
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Patricia S. Lucarelli, Esq.
John Spirito, Jr., Esq.
Leo J. Wold, Esq.
Cynthia Wilson-Frias, Esq.
Service List Docket 4028

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

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

v. :

Docket No. 4028

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 capacity as members of the :
Providence City Council; :
Defendants :

MOTION OF PROVIDENCE WATER SUPPLY BOARD
TO INTERVENE AS A FULL PARTY

Now comes Providence Water Supply Board (Providence Water) by its undersigned counsel, and pursuant to Rule 1.13 of the Rules of Practice and Procedure of the Public Utilities Commission (Commission), hereby moves to intervene as a full party in this matter. The Narragansett Electric Company d/b/a National Grid, the Division of Public Utilities and Carriers (Division), and the City of Providence, through their counsel, have stated that they have no objection to the granting of Providence Water's motion to intervene.

1. Providence Water supplies drinking water directly or indirectly to about 2/3 of the residents in the State of Rhode Island.

2. Approximately 25,600 (35%) of Providence Water's service lines are made of lead.

3. Based on lead level sampling results, a regulatory order has been issued mandating an accelerated schedule for replacement of Providence Water's lead service lines, in accordance with the federally legislated lead and copper rule. Providence Water is required to replace 7% of its lead services (1,792 lead services) annually.

4. The Commission in its Order in Docket No. 3832 (Order No. 19145 issued December 13, 2007) provided the necessary funding for the accelerated lead service replacement work.

5. The replacement of these lead pipes, which are located under the streets and sidewalks of the cities and towns serviced by Providence Water, requires Providence Water to dig up the street and/or the sidewalk to replace the lead pipe.

6. Prior to opening a street and/or sidewalk in the City of Providence, Providence Water must obtain a permit from the City for permission to do street opening work in a public way.

7. The permit and notice requirements for doing so are set forth in the "Standards to be Employed by Public Utility Operators when Restoring any of the Streets, Lanes and Highways in Providence" ("Standards") approved by this Commission on October 22, 2008 in Docket No. 2641 by Order No. 19465.

8. Section 3.0 of the aforesaid Standards sets forth the requirements for obtaining and issuing the permits. For example, the permit is issued by the Director of the Department of Public Works (Section 3.0). The city shall issue permits promptly and shall make its best efforts to issue a permit within seven days after submission of a completed application (Section 3.4). Upon completion of the work, Providence Water must "restore that portion of the roadway which is altered to the same or better condition that existed prior to alteration." (Section 4.0 and R.I.G.L. § 24-5-1.1).

9. These Standards were agreed to by all utilities opening streets in Providence. The Standards also require the utilities to guarantee their work for a period of five years; impose a permit fee of \$75 per excavation; include work standards and safety requirements; include provisions governing excavation, backfill, compaction, and pavement restoration; and include provisions designed to lead to better coordination between utilities and the City of Providence. All of these provisions in the Standards were approved by this Commission in the aforesaid Order issued on October 22, 2008.

10. The utilities involved in the aforesaid Commission proceeding were Narragansett Electric Company d/b/a National Grid, Providence Water, Cox Rhode Island Telecomm LLC, and Verizon New England. The docket arose because the aforesaid utilities appealed a 1997 ordinance of the City of Providence (and subsequent regulations) dealing with street excavations. This Commission subsequently nullified the 1997 ordinance (except for a \$40 application fee), but the aforesaid Standards were recently adopted by all parties.

11. Less than two months after the parties, including the City of Providence, signed off on a stipulation adopting the aforesaid Standards, the City of Providence enacted a new ordinance (Chapter 2008-48 approved December 12, 2008), which has new, onerous provisions regarding utility street opening permits that directly conflict with the Standards agreed to by the utilities and the City of Providence and approved by this Commission.

12. For example, Section 23-35 entitled "Utility Permits" of the new December 12, 2008 ordinance provides in pertinent part that "any utility company . . . applying for or receiving a permit to alter, install, or upgrade equipment located upon or under any public street or sidewalk . . . must submit a project plan . . ." The project plan must then be submitted to the Department of Planning and Development for review instead of the Department of Public Works. The Department of Planning and Development is given 30 days to submit recommendations to

the City Council. The City Council then has 30 additional days after receipt of Planning's recommendation to act upon the plan. Finally, once the City Council has approved the plan, the City Council then notifies the Department of Public Works.

13. The new process set forth in the December 12, 2008 ordinance is in direct conflict with the aforesaid Standards adopted by the utilities, the City of Providence, and approved by this Commission. More importantly, the new permitting process is completely unworkable. It would dramatically and negatively impact Providence Water's ongoing lead service replacement program. The replacement of 1,792 lead services per year means that more than seven lead services must be replaced per working day. And this is in addition to the normal service work that Providence Water must perform on other pipes, valves, etc. in the Providence streets, including installing new services.

14. Under the permitting system in place under the Standards, Providence Water's contractors could usually obtain a permit on the same day they applied if they applied in person with the application, plan, and fee at the Department of Public Works.

15. The December 12, 2008, ordinance essentially removes the Department of Public Works from the process. It sets up what appears to be at least a 60-day period of time during which the permit request would need to be reviewed by the Department of Planning and Development (and subsequently by the City Council) before the Department of Public Works is then notified that the permit application has been approved. Interjecting the Department of Planning and Development (as well as the City Council) into this formerly straight forward permitting process will seriously and adversely affects Providence Water's operations with regard to installing, repairing, and replacing its pipes, valves, etc.

16. Therefore, due to Providence Water's interest in this new ordinance, Providence Water respectfully requests that it be granted full party intervenor status in this matter. As

provided in Rule 1.13, Providence Water has “an interest which may be directly affected and which is not adequately represented by existing parties and as to which movants may be bound by the Commission’s action in the proceeding.”

17. In addition, Rule 1.13 allows for intervention where there is “any other interest of such nature that movant’s participation may be in the public interest.” Moreover, “any person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate may intervene in any proceeding before the Commission.”

18. Accordingly, Providence Water respectfully requests:

- a. that its Motion to Intervene as a full party be granted; and
- b. that the Commission, as provided in R.I.G.L. § 39-1-30, give consideration to the ordinance’s affect upon “the public health, safety, welfare, comfort, and convenience” and revoke the December 12, 2008 ordinance of the City of Providence.

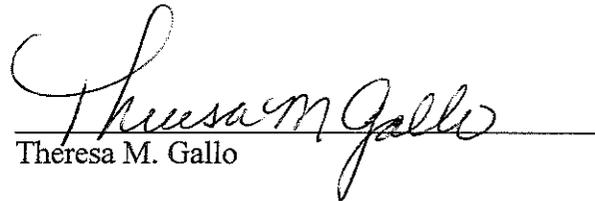
Respectfully submitted,
PROVIDENCE WATER SUPPLY BOARD
By its attorney



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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of March, 2009, I sent a true copy of the foregoing to the service list in this docket:


Theresa M. Gallo