

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

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

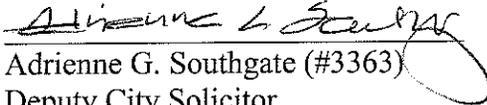
Docket No. 4028

THE CITY OF PROVIDENCE'S OBJECTION TO NARRAGANSETT ELECTRIC
COMPANY d/b/a NATIONAL GRID'S MOTION FOR SUMMARY JUDGMENT

The City of Providence ("City") objects to the Motion for Summary Judgment filed by Narragansett Electric Company d/b/a National Grid ("National Grid") on its petition seeking nullification of an Ordinance passed by the City requiring that National Grid and other utility companies obtain the written consent of property owners before relocating exterior utility meters, metering equipment, or regulators on residential structures in the City. In support of this objection, the City relies upon the accompanying Memorandum of Law.

Respectfully submitted,

THE CITY OF PROVIDENCE
By its attorney,


Adrienne G. Southgate (#3363)
Deputy City Solicitor
Department of Law
275 Westminster Street
Providence, RI 02903
(401) 421-7740, x333
(401) 351-7596 (fax)

Dated: March 25, 2009

CERTIFICATION

I hereby certify that on this 25th day of March, 2009, I caused a true copy of the foregoing to be served on the following attorneys by mailing a copy of same, faxing a copy of same, hand-delivering a copy of same, electronically mailing a copy of same; and an original and nine copies to be served electronically and via United States Mail upon Luly E. Massaro, Clerk to the Public Utilities Commission.

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Carolyn Ranucci

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

2020 MAR 27 11 12 AM
COMMUNICATIONS SECTION

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

Docket No. 4028

THE CITY OF PROVIDENCE'S MEMORANDUM OF LAW IN SUPPORT OF ITS
OBJECTION TO NARRAGANSETT ELECTRIC COMPANY d/b/a NATIONAL
GRID'S MOTION FOR SUMMARY JUDGMENT

The City of Providence ("City") objects to the Motion for Summary Judgment filed by Narragansett Electric Company d/b/a National Grid ("National Grid") on its petition seeking nullification of an Ordinance passed by the City requiring that National Grid and other utility companies obtain the written consent of property owners before relocating exterior utility meters, metering equipment, or regulators on residential structures in the City. Although the Ordinance on its face addresses matters which are within the ambit of the Public Utilities Commission's jurisdiction pursuant to R.I.G.L. § 39-1-30, there is no unwarranted interference with the utilities' placement of equipment. The City respectfully requests the opportunity to provide an evidentiary basis for the adoption of the Ordinance, thus allowing the Commission the chance to weigh the Ordinance, "giving consideration to its effect upon the public health, safety, welfare, comfort, and convenience."

Statement of Facts

National Grid's statement of facts regarding the Ordinance is accurate. However, it has omitted both the prequel and the sequel, both of which are germane to the matter.

The City acted because of the failure of a series of conversations amongst National Grid, the West Broadway Neighborhood Association residents and members, the Providence Historic District Commission, the Rhode Island Historic Preservation Commission, and municipal and state elected officials -- discussions which initially seemed likely to result in a negotiated agreement regarding the location of gas meters and regulators on homes within the West Broadway Historic District. A series of eight meetings were conducted, beginning on August 14, at which representatives of National Grid promised to restore gardens, foundations, and other property damaged by their gas subcontractors and to work with local residents to mutually select the site for installation of the meters and regulators, required because National Grid was installing new high-pressure gas lines in the neighborhood. There was no question that National Grid began its efforts without making any attempt to notify the residents (or their elected officials). Consumers who attempted, in person or via telephone, to question the National Grid contractors about what was occurring were treated disrespectfully, and even threatened with arrest.

The City was gratified by the early progress of the discussions with National Grid. When it became clear that National Grid was going to renege on the promises it had made, despite the precedent of having given special dispensations to residents in another historic district in the City to relocate their meters and preserve the value and aesthetics of their properties, the elected officials decided to act. In November, Providence City Council members John Lombardi and Michael Solomon drafted the Ordinance, which was passed the following month. In January, when the General Assembly convened,

Representative Steven Costantino introduced a bill, H-5088, in the Rhode Island House,¹ and Senator Paul Jabour introduced a companion bill, S-0107, in the Senate.² The City is fully cognizant of the fact that its Ordinance would be preempted should either of these bills be enacted.

Subsequent to National Grid's filing of the Motion for Summary Judgment, the City acted to amend the Ordinance to delete the entirety of Section 23-35, which outlined a municipal permitting process at odds with the Settlement Agreement adopted by all the parties to this litigation and approved by the Commission on October 6, 2008. (Petition for Review Pursuant to § 39-1-30 of Ordinances adopted by the City of Cranston and the City of Providence, Docket No. 2641, Order 19465 [issued October 22, 2008]). The revised Ordinance was presented to the Providence City Council on March 18, 2009 and is presently making its way through the committee process.³

Argument

Despite an exhaustively-researched and carefully-written brief, National Grid nevertheless fails in its attempt to divert the Commission's attention from the City's legitimate concerns about the defacement of valuable historic structures and abridgment of property rights. Claiming the Ordinance is preempted, by the Natural Gas Pipeline Safety Act, 49 U.S.C. § 60104(c) (the "NGPSA") for gas installations and by R.I.G.L.

¹ A copy of H-5088 is attached as Exhibit A. The bill was referred to the House Corporations Committee on January 14. A public hearing was conducted by the committee on February 11, 2009, where the bill was held for further study.

² A copy of S-0107 is attached as Exhibit B. The bill was referred to the Senate Corporations Committee on January 29. It was heard in committee on February 26, 2009 and continued.

³ A copy of the revised ordinance is attached as Exhibit C. The written annotation reads, "refer to Ord[inance]s [Committee]."

§ 39-1-1 *et seq.*, for electric installations, National Grid metaphorically washes its hands of any obligation to its gas and electric ratepayers in the City of Providence.

Turning first to the NGPSA, the City concedes that natural gas pipes, meters, and installations are within the ambit of intrastate pipeline safety. However, the Ordinance does not attempt to adopt “additional or more stringent safety standards for intrastate pipeline facilities,” the provision that triggers preemption. It merely requires National Grid to follow the same protocol in the West Broadway Historic District which the company found acceptable in the wealthier College Hill Historic District. Moreover, it is clear that the goal of the City’s ordinance is not barred by the NGPSA, because other utilities in other cities have either adopted or found similar mandates tolerable. For example, Baltimore Gas & Electric has the following policy:

All new gas services shall terminate at an outside location. If extenuating circumstances exist (i.e. historical district, jurisdictional limitations) and an outside termination is not feasible, an inside location and the design must be approved by the BGE. Please consult with your BGE representative before any construction.

In Philadelphia, this requirement (for both new installations and alterations) appears in a City of Philadelphia ordinance,⁴ although the city lacks authorization from the United States Department of Transportation to regulate gas meters and regulators. In many other historic districts, local regulations preclude or advise as “not recommended” attachment of exterior cables or other mechanical equipment on primary building facades.⁵

⁴ <http://webapps.phila.gov/council/attachments/5473.pdf>

⁵ See, e.g., <http://www.indygov.org/NR/rdonlyres/4BCFEB57-AC70-47EF-A27B-F89ACD094354/0/BldgSystemsGuidelines.pdf>

The NGPSA preemption claim turns on whether the Ordinance is an attempt to regulate the location of gas meters, lines, and regulators. However, that ignores the plain language of the Ordinance, which makes no attempt to specify where any gas plant should be placed, but only to regulate *process*. It interposes a crucial step -- the consent of the property owner -- before any utility installation.

Even if, *arguendo*, the NGPSA preempts any effort by a non-certificated entity to require a gas utility to stop its wholesale and discriminatory destruction of historic neighborhoods, creating safety hazards in the process, National Grid concedes that the Division of Public Utilities and Carriers (“DPUC”) possesses the requisite certification. The DPUC will be filing its own response to National Grid’s motion next week. However, if the Commission chooses to allow the Ordinance to take effect, the DPUC may agree to submit proposals which would acknowledge the valid concerns raised by residents of historic districts whose homes’ values have been reduced through National Grid’s selective policy of meter and regulator placement, causing property damage and aesthetic offense. The City believes that all parties are interested in ensuring safety; the question is whether, taking the broad view, concerns about impairment of property values and destroying historic fabric can be accommodated while ensuring that appropriate safety standards are followed.

National Grid’s second argument, the assertion that the Commission has exclusive authority to regulate the placement of electric metering equipment (and presumably, telecommunications, water, or “other utility services”), relies on the doctrine of implied state preemption of local law. However, R.I.G.L. § 39-1-30 specifically grants the Commission the responsibility to “determine the [validity of a local ordinance] giving

consideration to its effect upon the public health, safety, welfare, comfort, and convenience.” In short, the General Laws explicitly authorize the Commission to allow a local ordinance effect, if it appears that public health, safety, welfare, comfort, and convenience would be served thereby.

One measure of whether the challenged Ordinance meets these criteria is to ascertain whether the alleged impediment to utility’s placement of equipment exists in practice. Another Rhode Island public utility, the Providence Water Supply Board (“PWSB”), has long operated with the understanding that it does not enter private residential property without homeowner consent, nor does it install or remove water meters and equipment without consultation with homeowners.⁶ Merely because the PWSB is an entity operating exclusively within the boundaries of the State of Rhode Island, while National Grid is a multi-state (indeed, multi-national) entity, should not compel a different result for the two utilities.

National Grid has not fully delineated its objection to handling meter and regulator installations in conjunction with property owner consent. In Docket No. 3943, Record Request #14 sought any cost-benefit analysis prepared by National Grid that quantifies benefits of meter relocations from the interior to the exterior of residential premises. National Grid responded, “no cost-benefit analysis was performed.” If National Grid has non-cost-based reasons for choosing not to deal directly with its ratepayers over the issue of meter relocation, perhaps the best venue to explore these reasons is a hearing on the merits.

⁶ A packet of PWSB materials is attached as Exhibit D. All materials are provided to customers in both English and Spanish. The 72- and 24-hour door-hanger notices are bright yellow; the door-hanger notices for replacement without flushing, water sample lead test, and optional lead service replacement are bright red.

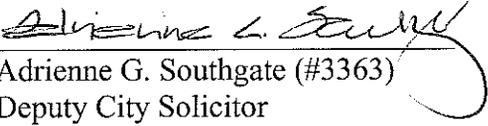
No time will be devoted to addressing National Grid's final argument, attacking a portion of the Ordinance, Section 23-35, which the sponsor has proposed to eliminate.

Conclusion

The Providence City Council, and indeed the Providence delegation at the General Assembly, was disturbed to find that National Grid ignored the cries of the historic preservation community and the valid concerns of local residents whose homes were vandalized by non-consensual installations of gas meters and regulators on the facades of homes in the West Broadway Historic District. The challenged Ordinance was the municipal attempt to forestall wholesale destruction of precious neighborhoods for a purpose which has never been made clear despite a good deal of mysterious talk about safety concerns. The Commission is invited to give weight to the issues of "public health, safety, welfare, comfort, and convenience" before making any ruling as to the validity or preemption of the Ordinance. To facilitate such a balancing process, the City believes a full evidentiary record would be indispensable.

Respectfully submitted,

THE CITY OF PROVIDENCE
By its attorneys


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Carolyn Ranucci

Exhibit A

2009 -- H 5088

LC00047

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - LOCATION OF GAS
REGULATORS AND GAS METERS

Introduced By: Representatives Costantino, Fox, Slater, Ajello, and Williams

Date Introduced: January 14, 2009

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 39 of the General Laws entitled "Public Utilities and Carriers" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 2.1

4 LOCATION OF RESIDENTIAL GAS REGULATORS AND GAS METERS

5 **39-2.1-1. Location of residential gas regulators and gas meters.--** (a) Prior to the
6 location or relocation of any residential gas regulator or gas meter, the public utility shall consult
7 with the owner(s) of the property as to their preference concerning the most suitable location for
8 such devices, and the public utility shall give preference to locations that are least visibly
9 prominent.

10 (b) The public utility is hereby prohibited from installing gas regulators and/or gas meters
11 on the visible front of any residential property or visible sides of the property that face a public
12 right-of-way, unless it is determined that there exists no prudent and feasible alternative to such
13 location. In high-pressure systems, the gas regulator may be located in an unobtrusive exterior
14 location that is not visible from a public right-of-way.

15 **39-2.1-2. Location of gas regulators and/or gas meters in historic districts.--** (a) The
16 public utility is hereby prohibited from installing gas regulators or gas meters on the exterior of
17 property located within a historic district, unless permitted to do so by the owner, and are hereby
18 required to obtain a permit from the historic district commission of any city or town which has

1 been created by the city or town council in accordance with the provisions of chapter 45-24.1, et.
2 seq.

3 (b) For the purposes of this section “property located with a historic district” means “a
4 certified historic structure” as defined in section 44-33.2-2 (1).

5 **39-2.1-3. Obligations of residential property owners.--** (a) The owner(s) of any
6 residential property within the interior of which a gas regulator or gas meter is located shall grant
7 reasonable access to the public utility responsible for the maintenance of the regulator or meter in
8 order to perform safety activities as required by law not less than every thirty-six (36) months.
9 Any owner which denies the public utility access to the gas regulator or gas meter shall be subject
10 to termination of service, and the public utility is hereby authorized to relocate the gas regulator
11 or gas meter to the exterior of the property in accordance with the provisions of section 39-2.1-1.

12 (b) The owner(s) of property with interior gas regulators or gas meters shall be required
13 to sign a consent form agreeing to the terms set forth in subsection (a).

14 (c) The owner(s) of residential property are hereby authorized to paint exterior gas
15 regulators and gas meters in order to blend with color of the property, and may landscape in front
16 of the regulator and/or meter in order to conceal the location thereof.

17 SECTION 2. Chapter 39-4-6 of the general laws entitled “Hearings and Investigations”
18 is hereby amended by adding thereto the following section:

19 **39-4-3.1. Investigations on complaint against utility – Location of residential gas**
20 **regulators.--** Upon a written complaint made against any public utility as defined in subsection
21 39-1-2(20) by any city or town council, or by any corporation, or by any twenty-five (25)
22 qualified electors that the proposed location or relocation of residential gas regulators or gas
23 meters by the public utility is unreasonable or unjustly discriminatory, the division shall proceed,
24 with or without notice, to make such investigation as it may deem necessary or convenient;
25 provided, that no order as provided in section 39-4-10 affecting the location of the gas regulators
26 or gas meters shall be entered by the division without a formal public hearing. When any
27 complaint shall be made by twenty-five (25) or more qualified electors, the complaint shall
28 designate one of the complainants upon whom shall be served all notices, orders, and citations
29 required by this chapter to be served upon complainants. Prior to taking final action, the division
30 shall provide notice to the state historical preservation and heritage commission of complaints
31 filed in accordance with this section, and the division shall provide a record of decision to the
32 historical preservation and heritage commission that explains the division's actions regarding the
33 complaint.

34 SECTION 3. Chapter 45-24.1 of the general laws entitled “Historical Area Zoning” is

1 hereby amended by adding thereto the following section:

2 **45-24.1-3.2. Legislative findings.**— The general assembly hereby recognizes that gas
3 regulators or gas meters located anywhere on the exterior of historic buildings or buildings
4 located in a historic district may create a visual intrusion to the property and to the surrounding
5 historic district, and it is the intent of this chapter to provide procedures for any public utility
6 proposing to locate or relocate such devices on residential historic buildings.

7 SECTION 4. Section 45-24.1-4 of the General Laws in chapter 45-24.1 entitled
8 “Historical Area Zoning” is hereby amended to read as follows:

9 **45-24.1-4. Permit required to construct, alter, or demolish structure— Application —**
10 **Written decisions of commission – Powers of commission.** -- (a) The commission shall, within
11 twelve (12) months of the date the local historic district zoning ordinance takes effect:

12 (1) Adopt and publish all rules and regulations necessary to carry out its functions
13 under the provisions of this chapter; and

14 (2) Publish standards as necessary to inform historic district residents, property owners,
15 and the general public of those criteria by which the commission determines whether to issue a
16 certificate of appropriateness. The commission may amend these standards as reasonably
17 necessary, and it shall publish all amendments.

18 (b) Before a property owner or public utility as defined in subsection 39-1-2(20) may
19 authorize or commence construction, alteration, repair, removal, or demolition affecting the
20 exterior appearance of a structure or its appurtenances within a historic district or affecting a
21 historic cemetery wherever located within a city or town, the owner or public utility must apply
22 for and receive a certificate of appropriateness from the commission. In applying, the owner or
23 public utility must comply with application procedures established by the commission pursuant to
24 this chapter and the applicable local ordinance. The commission ~~requires~~ shall require the owner
25 or public utility to submit information which is reasonably necessary to evaluate the proposed
26 construction, alteration, repair, removal, or demolition, including, but not limited to, plans,
27 drawings, photographs, or other information. The owner of the property or the public utility must
28 obtain a certificate of appropriateness for the project whether or not state law requires that he ~~or~~
29 she or it also obtain a permit from the local building official. The building official shall not issue
30 a permit until the commission has granted a certificate of appropriateness.

31 (c) In the case of a historic cemetery, the owner must comply with all provisions of law
32 and make suitable and appropriate provisions for the reinterment of any human remains in an
33 established cemetery. Original or existing headstones and markers shall be preserved and
34 installed at the site of the reinterment.

1 (d) In reviewing plans, the commission shall give consideration to:

2 (1) The historic and architectural significance of the structure and its appurtenances;

3 (2) The way in which the structure and its appurtenances contribute to the historical and
4 architectural significance of the district; and

5 (3) The appropriateness of the general design, arrangement, texture, materials, and
6 siting proposed in the plans.

7 The commission shall pass only on exterior features of a structure and its appurtenances
8 and shall not consider interior arrangements.

9 (e) All decisions of the commission shall be in writing. The commission shall articulate
10 and explain the reasons and bases of each decision on a record, and, in the case of a decision not
11 to issue a certificate of appropriateness, the commission shall include in the bases for its
12 conclusion that the proposed activity would be incongruous with those aspects of the structure,
13 appurtenances, or the district which the commission has determined to be historically or
14 architecturally significant. The commission shall send a copy of the decision to the applicant.

15 (f) In the case of an application for construction, repair, alteration, removal, or
16 demolition affecting the exterior appearance of a structure, or its appurtenances, which the
17 commission deems so valuable to the city, town, state, or nation, that the loss of that structure will
18 be a great loss to the city, town, state, or nation, the commission shall endeavor to work out with
19 the owner an economically feasible plan for the preservation of that structure. Unless the
20 commission is satisfied that the retention of the structure constitutes a hazard to public safety,
21 which hazard cannot be eliminated by economic means available to the owner, including the sale
22 of the structure to any purchaser willing to preserve the structure, or unless the commission votes
23 to issue a certificate of appropriateness for the proposed construction, alteration, repair, removal,
24 or demolition, the commission shall file with the building official or duly delegated authority its
25 rejection of the application. In the absence of a change in the structure arising from casualty, no
26 new application for the same or similar work shall be filed within one year after the rejection.

27 (g) In the case of any structure deemed to be valuable for the period of architecture it
28 represents and important to the neighborhood within which it exists, the commission may file
29 with the building official, or other duly delegated authority its certificate of appropriateness for an
30 application if any of the circumstances under which a certificate of appropriateness might have
31 been given under subsection (6) are in existence or if:

32 (1) Preservation of the structure is a deterrent to a major improvement program which
33 will be of substantial benefit to the community;

34 (2) Preservation of the structure would cause undue or unreasonable financial hardship

1 to the owner, taking into account the financial resources available to the owner, including the sale
2 of the structure to any purchaser willing to preserve the structure; or

3 (3) The preservation of the structure would not be in the interest of the majority of the
4 community.

5 (h) When considering an application to demolish or remove a structure of historic or
6 architectural value, the commission shall assist the owner in identifying and evaluating
7 alternatives to demolition, including the sale of the structure and its present site. In addition to
8 any other criteria, the commission also shall consider whether there is a reasonable likelihood that
9 some person or group other than the current owner is willing to purchase, move, and preserve the
10 structure, and whether the owner has made continuing, bona fide, and reasonable efforts to sell
11 the structure to any purchaser willing to move and preserve the structure.

12 (i) No less than fifteen (15) days after receiving an application to demolish or to remove
13 an historic cemetery, the commission shall forward the application to the commission to study
14 historic cemeteries. The commission shall also immediately forward to the commission to study
15 historic cemeteries its finding of fact, if any, together with its action on the application.

16 SECTION 5. This act shall take effect upon passage.

=====
LC00047
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - LOCATION OF GAS
REGULATORS AND GAS METERS

1 This act would establish procedures for the location or relocation of gas regulators and
2 gas meters on residential property by a public utility, and would make additional provisions
3 regarding historic buildings.

4 This act would take effect upon passage.

LC00047

Exhibit B

2009 -- S 0107

LC00325

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - LOCATION OF GAS
REGULATORS AND GAS METERS

Introduced By: Senators Jabour, Perry, Cote, Picard, and Pinga

Date Introduced: January 29, 2009

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 39 of the General Laws entitled "Public Utilities and Carriers" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 2.1

4 LOCATION OF RESIDENTIAL GAS REGULATORS AND GAS METERS

5 39-2.1-1. Location of residential gas regulators and gas meters.-- (a) Prior to the
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8 such devices, and the public utility shall give preference to locations that are east visibly
9 prominent.

10 (b) The public utility is hereby prohibited from installing gas regulators and/or gas meters
11 on the visible front of any residential property or visible sides of the property that face a public
12 right-of-way, unless it is determined that there exists no prudent and feasible alternative to such
13 location. In high-pressure systems, the gas regulator may be located in an unobtrusive exterior
14 location that is not visible from a public right-of-way.

15 39-2.1-2. Location of gas regulators and/or gas meters in historic districts.-- (a) The
16 public utility is hereby prohibited from installing gas regulators or gas meters on the exterior of
17 property located within a historic district, unless permitted to do so by the owner, and are hereby
18 required to obtain a permit from the historic district commission of any city or town which has

1 been created by the city or town council in accordance with the provisions of chapter 45-24.1, et.
2 seq.

3 (b) For the purposes of this section "property located with a historic district" means "a
4 certified historic structure" as defined in section 44-33.2-2 (1).

5 **39-2.1-3. Obligations of residential property owners.--** (a) The owner(s) of any
6 residential property within the interior of which a gas regulator or gas meter is located shall grant
7 reasonable access to the public utility responsible for the maintenance of the regulator or meter in
8 order to perform safety activities as required by law not less than every thirty-six (36) months.
9 Any owner which denies the public utility access to the gas regulator or gas meter shall be subject
10 to termination of service, and the public utility is hereby authorized to relocate the gas regulator
11 or gas meter to the exterior of the property in accordance with the provisions of section 39-2.1-1.

12 (b) The owner(s) of property with interior gas regulators or gas meters shall be required
13 to sign a consent form agreeing to the terms set forth in subsection (a).

14 (c) The owner(s) of residential property are hereby authorized to paint exterior gas
15 regulators and gas meters in order to blend with color of the property, and may landscape in front
16 of the regulator and/or meter in order to conceal the location thereof.

17 SECTION 2. Chapter 39-4-6 of the general laws entitled "Hearings and Investigations"
18 is hereby amended by adding thereto the following section:

19 **39-4-3.1. Investigations on complaint against utility – Location of residential gas**
20 **regulators.--** Upon a written complaint made against any public utility as defined in subsection
21 39-1-2(20) by any city or town council, or by any corporation, or by any twenty-five (25)
22 qualified electors that the proposed location or relocation of residential gas regulators or gas
23 meters by the public utility is unreasonable or unjustly discriminatory, the division shall proceed,
24 with or without notice, to make such investigation as it may deem necessary or convenient;
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26 or gas meters shall be entered by the division without a formal public hearing. When any
27 complaint shall be made by twenty-five (25) or more qualified electors, the complaint shall
28 designate one of the complainants upon whom shall be served all notices, orders, and citations
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33 complaint.

34 SECTION 3. Chapter 45-24.1 of the general laws entitled "Historical Area Zoning" is

1 hereby amended by adding thereto the following section:

2 **45-24.1-3.2. Legislative findings.--** The general assembly hereby recognizes that gas
3 regulators or gas meters located anywhere on the exterior of historic buildings or buildings
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10 **Written decisions of commission -- Powers of commission. --** (a) The commission shall, within
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12 (1) Adopt and publish all rules and regulations necessary to carry out its functions
13 under the provisions of this chapter; and

14 (2) Publish standards as necessary to inform historic district residents, property owners,
15 and the general public of those criteria by which the commission determines whether to issue a
16 certificate of appropriateness. The commission may amend these standards as reasonably
17 necessary, and it shall publish all amendments.

18 (b) Before a property owner or public utility as defined in subsection 39-1-2(20) may
19 authorize or commence construction, alteration, repair, removal, or demolition affecting the
20 exterior appearance of a structure or its appurtenances within a historic district or affecting a
21 historic cemetery wherever located within a city or town, the owner or public utility must apply
22 for and receive a certificate of appropriateness from the commission. In applying, the owner or
23 public utility must comply with application procedures established by the commission pursuant to
24 this chapter and the applicable local ordinance. The commission ~~requires~~ shall require the owner
25 or public utility to submit information which is reasonably necessary to evaluate the proposed
26 construction, alteration, repair, removal, or demolition, including, but not limited to, plans,
27 drawings, photographs, or other information. The owner of the property or the public utility must
28 obtain a certificate of appropriateness for the project whether or not state law requires that he or
29 she or it also obtain a permit from the local building official. The building official shall not issue
30 a permit until the commission has granted a certificate of appropriateness.

31 (c) In the case of a historic cemetery, the owner must comply with all provisions of law
32 and make suitable and appropriate provisions for the reinterment of any human remains in an
33 established cemetery. Original or existing headstones and markers shall be preserved and
34 installed at the site of the reinterment.

1 (d) In reviewing plans, the commission shall give consideration to:

2 (1) The historic and architectural significance of the structure and its appurtenances;

3 (2) The way in which the structure and its appurtenances contribute to the historical and
4 architectural significance of the district; and

5 (3) The appropriateness of the general design, arrangement, texture, materials, and
6 siting proposed in the plans.

7 The commission shall pass only on exterior features of a structure and its appurtenances
8 and shall not consider interior arrangements.

9 (e) All decisions of the commission shall be in writing. The commission shall articulate
10 and explain the reasons and bases of each decision on a record, and, in the case of a decision not
11 to issue a certificate of appropriateness, the commission shall include in the bases for its
12 conclusion that the proposed activity would be incongruous with those aspects of the structure,
13 appurtenances, or the district which the commission has determined to be historically or
14 architecturally significant. The commission shall send a copy of the decision to the applicant.

15 (f) In the case of an application for construction, repair, alteration, removal, or
16 demolition affecting the exterior appearance of a structure, or its appurtenances, which the
17 commission deems so valuable to the city, town, state, or nation, that the loss of that structure will
18 be a great loss to the city, town, state, or nation, the commission shall endeavor to work out with
19 the owner an economically feasible plan for the preservation of that structure. Unless the
20 commission is satisfied that the retention of the structure constitutes a hazard to public safety,
21 which hazard cannot be eliminated by economic means available to the owner, including the sale
22 of the structure to any purchaser willing to preserve the structure, or unless the commission votes
23 to issue a certificate of appropriateness for the proposed construction, alteration, repair, removal,
24 or demolition, the commission shall file with the building official or duly delegated authority its
25 rejection of the application. In the absence of a change in the structure arising from casualty, no
26 new application for the same or similar work shall be filed within one year after the rejection.

27 (g) In the case of any structure deemed to be valuable for the period of architecture it
28 represents and important to the neighborhood within which it exists, the commission may file
29 with the building official, or other duly delegated authority its certificate of appropriateness for an
30 application if any of the circumstances under which a certificate of appropriateness might have
31 been given under subsection (6) are in existence or if:

32 (1) Preservation of the structure is a deterrent to a major improvement program which
33 will be of substantial benefit to the community;

34 (2) Preservation of the structure would cause undue or unreasonable financial hardship

1 to the owner, taking into account the financial resources available to the owner, including the sale
2 of the structure to any purchaser willing to preserve the structure; or

3 (3) The preservation of the structure would not be in the interest of the majority of the
4 community.

5 (h) When considering an application to demolish or remove a structure of historic or
6 architectural value, the commission shall assist the owner in identifying and evaluating
7 alternatives to demolition, including the sale of the structure and its present site. In addition to
8 any other criteria, the commission also shall consider whether there is a reasonable likelihood that
9 some person or group other than the current owner is willing to purchase, move, and preserve the
10 structure, and whether the owner has made continuing, bona fide, and reasonable efforts to sell
11 the structure to any purchaser willing to move and preserve the structure.

12 (i) No less than fifteen (15) days after receiving an application to demolish or to remove
13 an historic cemetery, the commission shall forward the application to the commission to study
14 historic cemeteries. The commission shall also immediately forward to the commission to study
15 historic cemeteries its finding of fact, if any, together with its action on the application.

16 SECTION 5. This act shall take effect upon passage.

LC00325

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - LOCATION OF GAS
REGULATORS AND GAS METERS

1 This act would establish procedures for the location or relocation of gas regulators and
2 gas meters on residential property by a public utility, and would make additional provisions
3 regarding historic buildings.

4 This act would take effect upon passage.

LC00325

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER

refer to
Ords

No.

AN ORDINANCE AMENDING CHAPTER 23 OF THE PROVIDENCE CODE OF ORDINANCES, ENTITLED "STREETS, SIDEWALKS AND PUBLIC PLACES", ARTICLE I, TO ADD SECTIONS RELATING TO UTILITY SERVICES

Approved

Be it ordained by the City of Providence:

SECTION 1. The Code of Ordinances of the City of Providence, Chapter 23, entitled "Streets, Sidewalk and Public Places," Article I, "In General," is hereby amended to delete the following section:

Section 23-33. Utility services. No utility company or affiliated company shall install any meter, meter equipment or regulator anywhere on the exterior of any residential structure without the prior signed and/or written consent of the property owner. Such consent cannot be presumed from the property owner's acceptance of gas, electrical, water, telecommunications or other utility services.

Section 23-34. Enforcement of interior placement obligations. Any utility company or affiliated company which shall install a meter, meter equipment or regulator anywhere on the exterior of any residential structure without the prior signed and/or written consent of the property owner may be required to appear in the Providence Housing Court upon a citation issued by the Providence Department of Inspections & Standards. The Housing Court shall have jurisdiction and authority to impose a fine of up to \$250.00 per residential structure, in addition to requiring the utility company or affiliated company to restore any damage to the property, including damage to landscaping.

~~Section 23-35. Utility Permits. Prior to any utility company or affiliated company applying for or receiving a permit to alter, install, or upgrade equipment located upon or under any public street or sidewalk, or upon or under any private property, the utility company or affiliated company must submit a project plan as follows:~~

- 1) ~~For projects located within historic areas, defined as National Register Historic Districts or Local Historic Districts, a plan must be submitted to the Department of Planning & Development for review. Such plan must include a detailed description of the proposed work and must adhere to standards set forth by the Department based on its historic preservation design guidelines.~~
- 2) ~~For projects located outside historic areas, a plan must be submitted to the Department of Planning & Development for review. Such plan must include a detailed description of the proposed work and must adhere to the guidelines set forth in the Comprehensive Plan.~~
- 3) ~~The Department of Planning & Development shall submit its recommendations to the City Council no later than 30 days of receipt of such plan. The City Council shall act upon the plan no later than 30 days of receipt of the Department's recommendations.~~
- 4) ~~The provisions of Section 23-35 shall apply whenever a utility company or affiliated company seeks to initiate construction in an area that includes multiple properties, for instance, a street or section of a street, a block or section of a block, or multiple streets and/or blocks.~~
- 5) ~~Upon approval by the City Council of the submitted plan, the City Council shall notify the Department of Public Works of such approval.~~
- 6) ~~The provisions of Section 23-35 shall not apply in the case of a utility emergency.~~

SECTION 2. This ordinance shall take effect upon passage.

ANDREW A. MUFFI
Chairman
JOSEPH D. CATALDI
Vice Chairman
JOHN C. SIMMONS
Ex-Officio
CARISSA R. RICHARD
Secretary
R NANDO S. CUNHA, ESQ.
Legal Advisor



DAVID N. CICILLINE
Mayor
PAMELA M. MARCHAND, P.E.
Chief Engineer & General Manager
JOSEPH DE LUCA
City Councilman
MICHAEL A. SOLOMON
City Councilman
JOHN A. FARGNOLI
Member
EVERETT BIANCO
Member

Exhibit D

IMPORTANT LEAD INFORMATION

FIELD(Letter Date)

FIELD(Name)
FIELD(Address)
FIELD(City)

RE: Account Number: FIELD(acct #) Service Address: FIELD(service loc)

Dear FIELD(Name):

Our records indicate that the pipe that brings drinking water into your home from our water main in the street is made of lead. Ownership of the lead service line is shared jointly between Providence Water and the property owner. Providence Water owns the portion of the lead service line from the water main in the street to the curb stop shutoff valve. **The property owner owns the portion of lead pipe which runs into the building from the curb stop shutoff valve**, generally located near the edge of the street pavement.

To bring you the safest drinking water possible, Providence Water, along with the Environmental Protection Agency (EPA) and the Rhode Island Department of Health, has determined that we will replace our portion of all lead service lines in our water system over the next several years. **The lead service connection at your property is scheduled to be replaced during this construction season beginning July 2007.**

As a property owner, you have a choice to make. You need to decide whether or not to replace your portion of the connection. **As the owner of the property, you are responsible to pay for the cost of replacing your portion of your line.** We will be replacing our section, regardless of your decision. If you choose to replace your portion, you may have any contractor of your choice do the work for you. However, we are offering to have our contractor replace your portion of the lead service line at the same time that we replace our portion. That option may be less expensive to you. Read the enclosed blue-colored page, *Deciding Whether to Replace Your Lead Service Line*, to get help determining whether you should replace your side of the lead service.

After construction, a temporary increase in the levels of lead in your drinking water could occur. Take the precautionary measures outlined on the enclosed gray-colored page, *How to Reduce Lead in Your Drinking Water*. We will also test your water for lead (at no cost to you). You'll be asked to collect this water sample within 72 hours of the lead service line replacement and you will be notified of the lead test results.

We have enclosed a return envelope and confirmation form that must be filled out and mailed to us indicating **whether or not** you have an interest to receive an estimate for us to replace your portion of the lead service line. You may also contact us at the Providence Water Lead Service Replacement Hotline, **1-877-797-2267**, for more information.

We must receive a response from you by **FIELD(Letter Date + 15)**. If we don't, we will assume that you choose not to replace your lead service line at this time.

Respectfully,

Providence Water

MAILING TO Property OWNER

WWW.PROVWATER.COM

45 DAY NOTIFICATION

INFORMACIÓN IMPORTANTE ACERCA DEL PLOMO

Nuestros expedientes indican que su conexión domiciliaria con el servicio de abastecimiento de agua potable es de plomo. La conexión domiciliaria le pertenece en parte a Providence Water y en parte al dueño de la propiedad. Providence Water es propietario del trecho de la conexión entre la red principal de abastecimiento de agua y la llave de paso en el borde de la acera. *Al dueño de la propiedad le pertenece el trecho entre la llave de paso en el borde de la acera (generalmente situada a orillas del pavimento de la calle) y la casa o edificio.*

Para suministrar el agua potable más salubre posible, Providence Water, junto con la Agencia de Protección Ambiental (EPA) y el Departamento de Salud de Rhode Island, ha decidido reemplazar en los próximos años el trecho que le corresponde de las conexiones domiciliarias que contengan plomo en el sistema de abastecimiento de agua. Por eso mismo, *se ha programado reemplazar su conexión domiciliaria en esta temporada de construcción que inicia en julio del 2007.*

Como dueño de la propiedad, usted tiene la opción de reemplazar o no el trecho que le corresponde de su conexión domiciliaria y *tendrá la responsabilidad de pagar los costos de dicho reemplazo.* Nosotros reemplazaremos el trecho que nos corresponde, independientemente de su decisión. Si usted decide reemplazar su trecho, podrá utilizar al contratista que prefiera. Sin embargo, le ofrecemos la alternativa de que utilice a nuestro contratista para que reemplace su trecho de la conexión domiciliaria al mismo tiempo que reemplace el nuestro. Esta alternativa puede resultarle menos costosa. Por favor, lea la página de color azul adjunta *"La Decisión de Reemplazar o No su Trecho de la Conexión Domiciliaria que Contiene Plomo"*, para ayudarle a tomar esta decisión.

Después de las obras de construcción, puede haber un incremento temporal de la cantidad de plomo en el agua potable. Aplique las medidas de precaución indicadas en la página de color gris adjunta *"Cómo Reducir el Plomo en el Agua Potable"*. También analizaremos el agua de su vivienda para detectar si hay plomo, sin costo adicional para usted. Le solicitaremos obtener una muestra de agua en las 72 horas siguientes al reemplazo de la conexión y le comunicaremos los resultados de ese análisis en los tres días hábiles siguientes.

Hemos adjuntado un formulario que debe llenar y un sobre para que nos lo envíe por correo, para que indique *si tiene o no* interés en reemplazar el trecho que le corresponde de su conexión domiciliaria y en recibir una cotización. Para obtener más información, puede comunicarse con Providence Water llamando al número telefónico 1-877-797-2267, donde atendemos consultas sobre el reemplazo de conexiones domiciliarias que contienen plomo.

Debemos recibir su respuesta a más tardar el FIELD(Letter Date + 15) o de lo contrario asumiremos que usted no quiere reemplazar su conexión domiciliaria por ahora.

Atentamente,

Providence Water

PROVIDENCE WATER SUPPLY BOARD LEAD REPLACEMENT PROGRAM

YES, I AM INTERESTED IN REPLACING MY PORTION OF MY LEAD SERVICE CONNECTION.

PLEASE CONTACT ME ABOUT GETTING AN ESTIMATE.

I understand that this statement of interest does not obligate me at this time to replace my service line nor is it a binding contract, and that I will make myself available for communications and signing of a contractual agreement with Providence Water before the replacement begins.

I understand that I am responsible for the costs of replacing the portion of the line that I own, regardless of which contractor I choose.

Printed Name

Date

Signature

Day Telephone Number: _____

Night Telephone Number: _____

Cell Telephone Number: _____

E-mail: _____

NO, I CHOOSE NOT TO REPLACE MY LEAD SERVICE LINE

I, the undersigned, **choose not to** replace the portion of lead service line which I own.

Printed Name

Date

Signature

Telephone Number

******* PLEASE RETURN ENTIRE SHEET *******

FIELD(Name)

FIELD(service loc)

FIELD(acct #)

FIELD(stop #)

Junta del Servicio de Abastecimiento de Agua de Providence

Programa de Reemplazo de Conexiones Domiciliarias que Contienen Plomo

Sí, tengo interés en reemplazar MI trecho de conexión domiciliaria que contiene plomo.

Deseo que me contacten para obtener una cotización.

Entiendo que esta declaración de intenciones no constituye un contrato formal ni me obliga en este momento a reemplazar mi conexión domiciliaria. También entiendo que deberé estar disponible para que se comuniquen conmigo y para firmar un acuerdo contractual con Providence Water antes de iniciar el reemplazo de la conexión domiciliaria de agua.

Entiendo que soy responsable del costo de reemplazar el trecho que me corresponde de la conexión domiciliaria, independientemente del contratista que yo escoja.

Nombre (en letra de imprenta)

Fecha

Firma

Nº telefónico en el día: _____

Nº telefónico en la noche: _____

Nº de teléfono celular: _____

No deseo reemplazar mi trecho de conexión domiciliaria que contiene plomo.

Yo, quien firmo abajo, **no deseo** reemplazar mi trecho de conexión domiciliaria que contiene plomo.

Nombre (en letra de imprenta)

Fecha

Firma

Nº de teléfono

******* Por favor envíenos la hoja completa *******

ANDREW K. MOFFIT
Chairman
JOSEPH D. CATALDI
Vice Chairman
BRUCE T. MILLER
Ex-Officio
CARISSA R. RICHARD
Secretary
FERNANDO S. CUNHA, ESQ.
Legal Advisor



DAVID N. CICILLINE
Mayor
PAMELA M. MARCHAND, P.E.
Chief Engineer & General Manager
JOSEPH DE LUCA
City Councilman
MICHAEL A. SOLOMON
City Councilman
JOHN A. FARGNOLI
Member
EVERETT BIANCO
Member

14 Day Notification Advisory

Dear Providence Water Customer:

Providence Water has identified lead pipe water service connections in your neighborhood, which will be replaced with copper pipes, as part of the Lead Service Replacement Program and the 15-year Infrastructure Reinvestment Plan. Weather permitting, Providence Water will begin replacing the public side of lead water services in the street near your house during the week of **[Enter Month-Day], 2009.**

This construction work will cause some short-term inconvenience for you and your family. However, the work being planned now will provide you with continued reliable drinking water from Providence Water for decades to come.

During the construction, you will experience some temporary traffic inconveniences and there may be some short-term interruptions of water service. There will be portions of streets and sidewalks that may be blocked from time to time with equipment or materials. While this construction is ongoing, please do not park your vehicles on the street **or they may be towed.** If the public side of the water service to your building is determined to be lead, and is scheduled for replacement, you will be notified 72 hours before this work actually begins, and notified again 24 hours prior to your water being temporarily shut down.

After the Contractor replaces the public side of your water service, asphalt pavement is immediately placed in the street and in the sidewalk areas where the excavations were performed. This is considered temporary pavement because the Contractor is required to return and permanently replace the street pavement and sidewalk after a period of sixty (60) days. The street pavement and sidewalk will be properly restored to its original or improved condition.

Providence Water has subcontracted this work to **A.G.I Construction, Inc.** They are the company to call if you have questions or problems anytime during this lead service replacement project. They can be reached at **401-233-0021** during regular business hours or **401-413-2535** after hours. If for any reason you experience difficulties with our contractor's level of service to you, we want to know. If this occurs, call the Providence Water Lead Service Replacement Hotline at 1-877-797-2267, or 401-521-6300 (Ext. 7282) during regular business hours (Monday through Friday, 8:30AM - 4:30 PM).

Respectfully,

Providence Water

IMPORTANT NUMBERS

LEAD SERVICE REPLACEMENT HOTLINE
QUESTIONS / CONCERNS

(877) 797-2267 - LEAD HOTLINE
EMAIL: LSR@PROVWATER.COM

WATER SERVICE EMERGENCY
(ESPECIALLY NO WATER)
24 HOUR EMERGENCY LINE
(401) 521-6300



Si Usted necesita la version en Espanol de este panfleto por favor llamar al 877-797-2267
If you need a Spanish Translation of this booklet please call 877-797-2267

Providence Water **PWSB AT WORK IN YOUR COMMUNITY**
Lead Service Replacement (LSR) WHAT TO EXPECT

PWSB's Contractor will be replacing the lead water service pipe in public space at this address in about 2 weeks after you get this notice. This booklet will help you understand the LSR process and what you can expect.

WHAT'S INSIDE...

- 1 BEFORE CONSTRUCTION
- 2 DURING CONSTRUCTION
- 3 AFTER CONSTRUCTION
- 4 CLEANING THE AERATOR
- 5 UNDERSTANDING YOUR PROPERTY LINE
- 6 DEALING WITH OCCASIONAL PROBLEMS
- 7 EPA REQUIRED NOTIFICATION



IMPORTANT PHONE NUMBERS:
Any service emergency (ESPECIALLY NO WATER)

Lead Replacement Hotline (877) 797-2267
24 Hour Emergency Line (401) 521-6300

14 DAY NOTIFICATION