



State of Rhode Island and Providence Plantations

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Patrick C. Lynch, Attorney General

June 11, 2009

Ms. Luly Massaro, Clerk
Public Utilities Commission
89 Jefferson Blvd.
Warwick, RI 02888

Re: Docket No. 4065

Dear Ms. Massaro,

The Division is in receipt of an e-mail dated June 9, 2009, which contains a procedural schedule for the above-entitled docket, as well as includes a statement that the schedule in the above docket was “mutually agreed upon by the participants at the June 5 pre-hearing conference”. While I am sure it was entirely unintentional, the latter statement has the unfortunate effect of mischaracterizing the Division’s position relative the current procedural schedule. I write merely to ensure that the statement will not be construed in any manner limiting or precluding the Division’s rights or pending efforts to obtain a modification of the June 9, 2009 procedural schedule.

Prior to the June 5, 2009 conference, Commission staff had circulated a proposed schedule to the parties, which contained a filing date for the Division’s Direct Testimony of August 17, 2009, among other deadlines. Upon review of that schedule, the Division believed that it would be impossible for the Division to meet the proposed August 17, 2009 deadline and communicated its belief in this regard to Commission staff.

At the June 5, 2009 pre-hearing conference, Commission staff clearly communicated to the parties that the schedule to come out of the June 5th conference was to be based on the hearing dates included in the draft schedule that was circulated by staff prior the conference to the parties. The parties were also advised that there would not be any discussion or consideration of extending the suspension period at the conference, but that the Division or any other party could file a formal motion to modify the schedule that was issued by the Commission as a result of the conference.¹

¹ That Motion was filed yesterday, June 9, 2009.

The Division objected to these scheduling pre-conditions, and as a consequence withdrew an initially raised schedule that was based on an 8-month suspension period.² Then, reserving all of its rights, the Division proceeded with the pre-hearing conference proposing an alternative, “least preferred” schedule, which the Division had also prepared in anticipation of the conference.

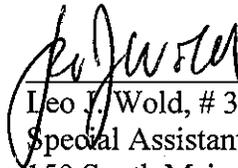
The June 9, 2009 schedule, thus, was not “mutually agreed upon by the participants at the June 5, 2009 pre-hearing conference” but rather, from the Division’s perspective, was arrived at in order to accommodate the pre-conditions that Commission staff had communicated to the Division at the conference (*i.e.*, Commission staff’s proposed hearing dates and timetable for the docket), while reserving all the Division’s rights to adjust the schedule via a formal motion.

As I indicated above, I am sure the statement contained in the June 9, 2009 e-mail was completely inadvertent, and, in no way was intended to bar or preclude the rights or efforts of the Division to seek a modification of schedule that would enable the Division to provide the Commission with a thorough and thoughtful presentation of its case. Nonetheless, for purposes of maintaining a clear record in the above-entitled proceeding, it is important, by this correspondence, to communicate the Division’s continuing opposition—rather than “mutual agreement”—to the June 9, 2009 schedule.

Thank you for your attention to this matter.

Respectfully submitted

Division of Public Utilities and Carriers
By its attorneys,



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cc: Service List

² The Commission utilized such extended suspension period in Docket 3943.