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**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION**

IN RE: INVESTIGATION AS TO THE PROPRIETY OF PROPOSED TARIFF CHANGES : **Docket No. 4065**

**DIVISION'S MOTION TO AMEND
SCHEDULE**

The Division of Public Utilities and Carriers ("Division") hereby moves to amend the Schedule established by the Commission at the pre-hearing conference that took place on June 5, 2009. On the afternoon of June 1, 2009, The Narragansett Electric Company, d/b/a National Grid ("Narragansett Electric" or "National Grid") filed an 11-volume rate application, which included 9 volumes of testimony and exhibits and two volumes of filing requirements, entitled "Investigation as to the Propriety of Proposed Tariff Changes." National Grid's rate application included the pre-filed testimonies and exhibits from thirteen (13) expert witnesses. The rate increase request is for an increase of \$75.3 million, which is an increase of 34% in base distribution revenues. Atypical of its usual pre-hearing procedure, prior to the filing's submittal, the Commission scheduled a pre-hearing conference for June 3, 2009. (At the request of the Division, the Commission agreed to continue the conference two additional (2) days, to June 5, 2009, due to the unavailability of appropriate Division personnel and Division's counsel.) Accordingly, as of the date of the pre-hearing conference (and even as of today), the Division had not had a sufficient opportunity to review every facet of National Grid's rate filing.

In Volume 3, Page 2 of 60 of witness Moul's testimony at line 13 of the filing, however, the Division observes that witness Moul indicates that "The rate of return that I

propose in this case is shown on page 1 of Schedule NG-PRM-1 and is based on the Company's capital structure ratios as of December 31, 2008, with pro forma adjustments to reflect Narragansett Electric's financing plan to restructure its capitalization that has been filed with the Rhode Island Division of Public Utilities and Carriers ("Division").

As of this writing, that financing plan which is a significant component of the Company's proposed rate of return, has yet to be filed. Mr. Moul refers to Narragansett Electric's plan to restructure its capitalization again on the same page, but this time, beginning on line 13, he refers to the financing application with the Division as an event, which he *expects to occur* at some point in June of 2009. He states beginning on line 13, "in [Narragansett Electric's] financing application, to be submitted to the Division in June 2009," Narragansett Electric "will be seeking authorization to issue \$512 million of new long-term debt to repay short-term debt and make dividend payments in order to reduce its common equity ratio, exclusive of good will to approximately 50% for rate setting purposes."

Narragansett Electric's rate filing contains a brief outline of the Company's proposed re-capitalization. Narragansett Electric, however, has not as yet filed the aforementioned "financing application," and upon inquiry from the Division, Narragansett Electric indicates the Company will not be able to submit the application to the Division until the end of June, 2009. Thus, data such as individual financings, rationale and background for the financing proposal, *etc.*, that is necessary and essential for the determination of Narragansett Electric's cost of capital is absent from the Company's pending rate application.

This omission reflects a filing that does not “substantially conform in all material respects to the requirement of the Commission’s rules.” Rule 2.5(b) of the Commission’s Rules of Practice and Procedure (“Rules”) entitled “Complete Direct Case” provides that materials “in the form of testimony and exhibits” that “shall be included in or shall accompany the filing” that will support its “complete direct case in support of the rates applied for.” Rule 2.8(c) provides that investor-owned utilities are “required” to file material that reflects “the capital structure utilized by the company for the determination of new rates. *If this differs from the actual capital structure data, the proforma changes are to be fully explained and supported.*” (Emphasis added).

For obvious reasons, the pending filing does not comply with either Rule. National Grid has not filed a “complete direct case” with testimony and exhibits fully explaining and supporting the proposed *pro forma* changes in the Company’s capital structure. Since the Company’s rate filing is currently incomplete, the Commission’s own Rules authorize the Commission to dismiss and/or un-docket the above-entitled proceeding. If the Commission chooses to undocket the proceeding, then when “the applicant cures any non-conformance to the satisfaction of the Clerk” and supplies the aforementioned missing information, the matter may be re-docketed. “The time periods set forth in R.I.G.L. § 39-3-11” will then start to run “thirty (30) days after the date of docketing.” Rule 1.3(e).

Under the current schedule, the Division and its relevant expert are deprived of significant time to review the material, conduct discovery and provide the Commission with a thorough presentation of the cost of capital issue—an issue, which is a material

and, most likely a significantly material, component of National Grid's overall rate request.

This specific deficiency with National Grid's application exemplifies a broader concern with the current schedule, which the Division raised at the June 5, 2009 pre-hearing conference. Despite the short duration of time between the date of the filing (June 1, 2009) and the date of the pre-hearing conference (June 5, 2009), the Division was able to contact a number of potential expert consultants to review National Grid's filing and provide testimony in the above docket. Not all those contacted could meet a filing date of September 1, 2009. The other experts indicated that the current schedule is exceedingly "tight," and that this "tightness" raises a general concern as to the comprehensiveness of his or her respective testimonies, *i.e.*, whether the expert consultants, within the allowed time-period, will be able to provide the Commission with as thoughtful and thorough a presentation in the initial direct testimonies, that addresses all of the material issues contained in National Grid's application, as they would if more time was allotted for that critical task.

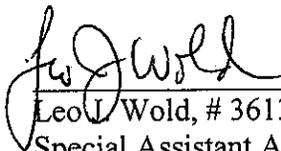
The Division communicated the aforementioned concerns to National Grid both prior to and after the June 5, 2009 pre-hearing conference. National Grid acknowledges the Division's concerns and seems agreeable to waive the current statutory maximum 6-month suspension period to permit an extended review period for up to an additional 2 months beyond the December 31, 2009 deadline, provided that the Company is made "whole" (based on its awarded rates) for the extension period. The Company's agreement in this regard is consistent with the procedure that the Commission utilized in Docket No. 3943 to complete its deliberations and render its decision.

For the foregoing reasons, the Division respectfully requests the Commission to amend the current Schedule in this docket to allow: (i) that the Division^{is} Direct Testimony is due on or after October 1, 2009, (ii) that the Division continues to possess at least 14 working days to provide Surrebuttal Testimony from the new date established for National Grid's Rebuttal Testimony, and (iii) that the Division possesses 30 days to submit Post-Hearing Briefs.

Respectfully submitted,

DIVISION OF PUBLIC UTILITIES AND
CARRIERS

By its attorneys,



Leo J. Wold, # 3613

Special Assistant Attorney General

150 South Main Street

Providence, RI 02903

401-274-4400, ext. 2218

CERTIFICATE OF SERVICE

I certify that a copy of the within motion was forwarded by e-mail to the Service List in Docket No. 4065 on the 9th day of June, 2009.

