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January 22, 2010

Luly Massaro, Clerk  
Public Utilities Commission  
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Warwick, RI 02888

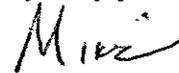
Re: National Grid  
Docket No. 4065

Dear Luly:

Enclosed are an original and nine copies of TEC-RI's Post-Hearing Brief in this matter.

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

Very truly yours,



Michael R. McElroy

MRMc:tmg  
cc: Service List

BEFORE THE  
STATE OF RHODE ISLAND  
AND PROVIDENCE PLANTATIONS

PUBLIC UTILITIES COMMISSION

IN RE: NARRAGANSETT ELECTRIC : APPLICATION FOR APPROVAL  
d/b/a NATIONAL GRID : OF A CHANGE IN  
RHODE ISLAND ELECTRICITY : BASE DISTRIBUTION RATES  
: DOCKET 4065

POST-HEARING BRIEF OF THE ENERGY COUNCIL  
OF RHODE ISLAND

Respectfully submitted,  
The Energy Council of Rhode Island  
By its attorney

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January 22, 2010

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION .....	1
<b>I. REVENUE REQUIREMENTS.....</b>	<b>2</b>
<i>a. The Commission should adopt the recommendations of the Division with respect to revenue requirements.....</i>	<i>2</i>
<b>II. BACK-UP RATES.....</b>	<b>2</b>
<i>a. The Commission should eliminate the Company's proposed back-up rates for onsite generation .....</i>	<i>2</i>
<b>III. COST OF SERVICE/RATE DESIGN FOR G32/G62 .....</b>	<b>5</b>
<i>a. The Commission should adopt the recommendations of the Navy with respect to the class cost of service study .....</i>	<i>5</i>
<i>b. The Commission should adopt the recommendation of the Company to allocate Uncollectible Accounts-Delivery directly to classes .....</i>	<i>6</i>
<i>c. The Commission should reject the Division's proposal to arbitrarily shift transmission costs to C&amp;I Large Demand .....</i>	<i>6</i>
<i>d. The Commission should accept the Company's proposal to allocate Bad Debt Costs in Standard Offer Service by direct assignment .....</i>	<i>6</i>
<i>e. The Commission should grant rate relief to current G-62 customers with peak demands greater than 8 MW .....</i>	<i>7</i>
<b>IV. TRANSMISSION RATE DESIGN .....</b>	<b>8</b>
<i>a. The Commission should adopt the Company's proposed Transmission Rate Design. ....</i>	<i>8</i>
<b>V. OTHER ADJUSTMENT FACTORS.....</b>	<b>9</b>
<i>a. The Commission should eliminate all uniform per-kWh adjustment factors. ....</i>	<i>9</i>

VI. REVENUE DECOUPLING .....	10
<i>a. There is no evidence that the Company's Revenue Decoupling         Ratemaking (RDR) plan is needed to further the state's         public policy goals related to energy efficiency</i> .....	10
<i>b. The Company's RDR plan hurts ratepayers</i> .....	12
<i>c. The Company's RDR plan weakens regulatory oversight</i> .....	14
<i>d. The Company's proposed uniform cents per kWh adjustment         is not an appropriate mechanism</i> .....	15
<i>e. The Company's RDR plan is complicated rate engineering         with unclear objectives</i> .....	16
CONCLUSION.....	18

BEFORE THE  
STATE OF RHODE ISLAND  
AND PROVIDENCE PLANTATIONS

PUBLIC UTILITIES COMMISSION

IN RE: NARRAGANSETT ELECTRIC : APPLICATION FOR APPROVAL  
d/b/a NATIONAL GRID : OF A CHANGE IN  
RHODE ISLAND ELECTRICITY : BASE DISTRIBUTION RATES  
: DOCKET 4065

POST-HEARING BRIEF

INTRODUCTION

The Energy Council of Rhode Island (TEC-RI) appreciates this opportunity to address the Public Utilities Commission in the matter of Docket 4065, the request by National Grid for a change in its base electric distribution rates.

In this post-hearing brief, TEC-RI will address the issues of concern to TEC-RI that remain in dispute. These include:

1. Revenue Requirements.
2. Backup Rates.
3. Cost of Service/Rate Design for G62/G62.
4. Transmission Rate Design.
5. Adjustment Factors.
6. Revenue Decoupling.

## I. REVENUE REQUIREMENTS

- a. The Commission should adopt the recommendations of the Division with respect to the revenue requirements in this case.

The Company's proposed increase in its revenue requirements is excessive and out of proportion to the major factors that would drive such an increase. TEC-RI supports the findings of Mr. David Effron, the Division's main witness on revenue requirements. Mr. Effron's adjustments to the Company's proposed rate year cost of service are well-reasoned and well-supported by his testimony and exhibits. Further, his calculated revenue deficiency of \$26,841,000 is equal to 12.45% of rate year tariff revenues. This is in line with the most that the ratepayer is able to absorb in this very difficult economic climate in Rhode Island.

## II. BACK-UP RATES

- a. The Commission should eliminate the Company's proposed back-up rates for onsite generation.

Backup rates in Rhode Island remain a significant impediment to the full development and procurement of cost-effective distributed generation (DG) and combined heat & power (CHP) in the National Grid service territory. They are also contradictory to the policy established by Rhode Island law, including 39-1-1 (e) (4), which states "it is a necessary move beyond basic utility restructuring in order to secure for Rhode Island, to the maximum extent reasonably feasible, the benefits of reasonable and stable rates, least-cost procurement, and system reliability that includes energy resource diversification, distributed generation, and load management".

Rhode Island law also gives the Commission the specific authority to amend or eliminate backup rates in order to facilitate public policy. R.I.G.L. § 39-1-27.7 (a) (1) (iv) states: “To effectuate the purposes of this division, the commission may establish standards and/or rates (A) for qualifying distributed generation, demand response, and renewable energy resources, (B) for net-metering, (C) for back-up power and/or standby rates that reasonably facilitate the development of distributed generation, and (D) for such other matters as the commission may find necessary or appropriate.”

The Division’s cost of service and rate design witness, Mr. Swan, testified, “I think the loads for backup service, I think the diversity of those loads would be considerably greater than the diversity of requirements loads which means that the cost per kilowatt ought to be less” [Transcript, December 1, 2009, page 49, lines 8-12.]

The Company’s cost of service and rate design witness, Mr. Gorman, testified in agreement to the fact that a customer who lowers their demand from energy efficiency or demand response does not pay distribution charges on the portion of their demand that they lowered, while a backup rate customer that lowers their demand from onsite generation nevertheless does pay distribution charges on the portion of their demand that they lowered [Transcript, November 13, 2009, page 43 line 8 through page 44 line 3]. That is simply not fair. What happens if one or more of these customers decides to leave Rhode Island completely? Who will pay for that idle distribution plant then?

Not only that, but the Company has stipulated in this case that were the Commission to adopt straight revenue decoupling, without the inflation adder or the capital tracker, the Company would agree to eliminate backup rates for B-32 and B-62 [Transcript, November 13, 2009, page 44 line 12 through page 45 line 16].

The Company has an outstanding record request pending whereby the Commission has asked the Company to provide the annual revenue that would be foregone if backup rates were eliminated. In addition, TEC-RI has provided, in response to a Commission record request, an estimate of the revenue associated with new onsite generation that would come on line in the future if there were no backup rates.

Based on Schedule NG-HSG-6 Page 4 of 12 in the Direct Testimony of Company witness Gorman, current annual revenue collected from the B32 and B62 back-up rates totals \$246,018. The Company projects the need to collect \$515,868 per year from back-up rates in order to meet its requested revenue requirement in this case. TEC-RI's response to PUC Record Request 1 forecasts an additional \$37,000 per year of revenue foregone associated with new onsite generation coming on each year in the future. These are based on rates that collect the same revenue per kW from backup as from full requirements customers, even though, as the Division's witness pointed out, the cost per kW is less for the backup rate customer. In any event, the revenue associated with eliminating backup rates is miniscule in comparison to the total distribution revenue requirements that the Company is requesting in this case - \$288 million, or even in comparison to the increase in revenue requirements that the Company is requesting - \$65 million.

Eliminating backup rates would give a shot in the arm to major businesses and institutions who either currently have onsite generation or would consider it in the future. It will also remove a major barrier to installing cost-effective, efficient combined heat and power generation in Rhode Island.

In light of the facts of this case, the Commission is urged to eliminate the backup rates B32 and B62, and allocate the revenues foregone to all rate classes, consistent with other public policy initiatives.

### **III. COST OF SERVICE/RATE DESIGN FOR G32/G62**

- a. The Commission should adopt the recommendations of the Navy with respect to the class cost of service study in this case.

TEC-RI supports the Navy's position that the Commission require the Company, in their next distribution rate case, to conduct a Minimum Distribution System study and develop a class cost of service study that classifies and allocates distribution line costs in Accounts 364-368 into demand and customer components [Al-Jabir Direct Testimony, page 2, lines 16-19]. TEC-RI also supports the Navy's proposal to allocate economic development costs to all customer classes on the basis of delivery service revenues [Al-Jabir, page 2, lines 20-24]. TEC-RI also concurs with the Navy that it is not reasonable to place the burdens of revenue subsidies completely on the Commercial & Industrial Large Demand class [Al Jabir, page 2, lines 25-31].

- b. The Commission should adopt the recommendation of the Company to allocate Uncollectible Accounts-Delivery directly to the classes where those bad debts originated.

TEC-RI supports the Company's position to allocate Uncollectible Accounts-Delivery directly to the classes where those bad debts originated. TEC-RI respectfully disagrees with the Division's recommendation to allocate Uncollectible Accounts – Delivery on the basis of Total Delivery Revenue.

- c. The Commission should reject the proposal made by the Division to arbitrarily shift transmission costs to C&I Large Demand

TEC-RI strongly disagrees with Dr. Swan's proposal to shift approximately \$2 million of revenue responsibility in the distribution revenue allocation from residential to C&I Large Demand. While the purported reason is to correct for a perceived need to mitigate transmission cost increases to the residential class, no rationale is given for the size of the adjustment. This is an arbitrary and unfair recommendation that would subsidize one class at the expense of another class.

- d. The Commission should accept the Company's proposal to allocate Bad Debt Costs in Standard Offer Service (SOS) by direct assignment to the classes that incur those costs.

TEC-RI supports the Company's position to allocate bad debt expenses by direct assignment to the classes that incur those costs. TEC-RI disagrees with the Division's recommendation to allocate bad debt costs on the basis of SOS energy deliveries.

e. The Commission should grant rate relief to the largest current G-62 customers with peak demands greater than 8 MW so that none of these customers experiences a distribution rate increase that is greater than 150% of the average rate increase.

Company response to TEC-RI record request #4 proves the contention that these largest ratepayers and major employers in our state would receive excessive distribution rate increases in this filed case. The system average distribution rate increase requested by the Company in this case is approximately 30%. However, as a group, ratepayers over 8 MW would see a distribution rate increase of 92%. The largest two customers, according to the Company's figures, would receive distribution rate increases of over 125% each, with dollar increases of \$700,000 and \$900,000 per year!

For these largest electricity consumers, electricity price increases contribute to the overall change in cost structure that impacts job prospects. Many companies will try to compensate for these cost increases in other categories by taking actions such as limiting travel, prohibiting overtime, and not filling vacancies. Layoffs and pay cuts are a last resort. Electricity cost increases directly reduce profits for the companies, and thus their incentive to continue doing business in Rhode Island is reduced. Over time, companies can reach the point where there is no more room to absorb this type of cost increase.

According to the August 2009 EEI state electricity report, Rhode Island already has the fourth (4<sup>th</sup>) highest industrial price for electricity in the United States [Farley Direct Testimony, page 7, lines 20-22). Our largest employers are concerned that we are continuing to lose competitiveness in Rhode Island. Rhode Island is not as competitive as other regions. Rhode Island is already struggling. Electricity price increases further handicap the ability of TEC-RI's

members to be competitive as businesses and to offer jobs. [TEC-RI response to PUC Data Request 1-1]

In light of this compelling need to avoid taking steps that could further damage the jobs-producing engine for the Rhode Island economy, and in consideration of the ratemaking principle of gradualism, it is sensible for the Commission to adopt a reasonable correction that will provide meaningful rate relief to this economically-vital subgroup of ratepayers.

TEC-RI therefore respectfully requests that the Commission order the Company to limit the magnitude of the distribution rate increase for current G62 customers with demands greater than 8 MW to 150% of the average rate increase. TEC-RI has concluded that the most practical way to implement this increase is to treat this set of customers as a subgroup, and to design a rate with a large customer charge, with the balance of the revenues collected using a demand charge.

#### **IV. TRANSMISSION RATE DESIGN**

a. The Commission should adopt the Company's proposed Transmission Rate Design.

TEC-RI supports the Company's proposed transmission rate design. The proposed design for transmission service rates reflects more closely how the Company incurs those costs. This design provides better price signals to customers about what drives transmission costs, and it does a better job making sure that customers and rate classes pay according to the costs their usage imposes on the transmission system.

TEC-RI notes approvingly that no party in this case has objected to the Company's proposed transmission rate design.

## V. OTHER ADJUSTMENT FACTORS

### a. The Commission should eliminate all uniform per-kWh adjustment factors.

The Company is proposing to use uniform per-kWh rate adjustments to recover several new charges in this case: (1) the proposed new Distribution Adjustment Factor; (2) the proposed new Pension and OPEB Adjustment Factor; (3) the proposed new RDR plan Revenue Reconciliation factor; and (4) the proposed new Inspection and Maintenance Cost Adjustment Factor. According to its filed tariffs in this case [Schedule NG-HSG-11], the Company is proposing to collect each of these charges from all of its retail delivery service customers on a uniform per-kilowatt-hour basis.

Yet, according to the Company's allocated Cost of Service Study, not one category of costs from its revenue requirement is assigned to energy. The distribution costs in this case are classified as either demand related or customer related, but not energy related.

Collecting these costs on a uniform per kilowatt-hour basis creates inequities in the treatment of customers across rate classes and within rate classes. According to Division witness Mr. Oliver, "All classes don't as a base provide the same cents per kilowatt hour of revenue. When you apply a uniform adjustment, the classes that have lower cents per kilowatt hour average costs at present rates are hit with a much higher increase." [Transcript, December 1, 2010, page 78, lines 13-18.]

Uniform cents per kilowatt hour charges are unfair, and they are not reflective of cost causation in any way. The Company wants decoupling to break the link between revenues and kWh usage, and yet these uniform cents per kWh charges do the opposite.

In consideration of these facts, TEC-RI is asking the Commission to eliminate all per kWh adjustment factors from the bill. Instead, we ask that the costs associated with adjustment factors approved in this case, if any, be allocated to classes using the most appropriate Cost of Service allocator. Further, we ask that the resulting costs be collected from ratepayers in any class by adjusting the distribution rate charges for that class.

## **VI. REVENUE DECOUPLING**

- a. There is no evidence that the Company's Revenue Decoupling Ratemaking (RDR) plan is needed to further the state's public policy goals related to energy efficiency

Company witness Stout answered a question posed by Commission Counsel Lucarelli whether it is his testimony that National Grid's energy efficiency programs cannot be effective if the Commission does not approve revenue decoupling [Transcript, November 4, 2009, page 220 line 16 through page 221 line 3]:

WITNESS: No, these programs can and will be effective and that's been the history of our programs. We have a long record of implementing effective programs under a lot of direction and leadership of the Commission and staff or Division. So they will be very effective in their implementation.

Q. Without revenue decoupling?

A. Without revenue decoupling.

Company witness Stout further testified that the energy efficiency programs that the Company has represented to the Commission in previous dockets are not going to change absent revenue decoupling [Transcript, November 4, 2009, page 222, lines 10-15].

Even the architect of the RDR plan, Dr. Tierney, could not make a definitive statement establishing a solid link between the RDR plan and more benefits from Company energy efficiency programs. There was a great deal of discussion about the benefits of energy efficiency but no definite statement that adopting this RDR plan would result in tangible new benefits from more or better energy efficiency programs. Most notable was this exchange between Mr. Ucci of the Commission staff and Dr. Tierney [Transcript, 11/4/2009, pages 164 line 12 to 165 line 3]:

MR. UCCI: What I do not see here is an estimate, data, numbers, metrics, something that shows me how approval of this mechanism will lead to, as you stated, full engagement and participation in EE programs and what new levels of energy savings for consumers will be achieved under this plan. That's what I don't see. And throughout the testimony the two are intricately linked. Revenue decoupling, common sense will lead to energy efficiency, but I don't – I guess I'd like to see some numbers or something that shows me that if this, then this will result. Under these conditions that will occur and I don't see that.

DR. TIERNEY: It's true, I did not provide that and I don't know actually how I would prove that to you with – with numbers.

This prompted the Chairman to compare ratemaking with theology. “It's all based on faith?” To which Dr. Tierney replied, “Kind of”. [Transcript, 11/4/2009, page 167, lines 3-6]

And yet one has to wonder. Should the ratepayer be required to take it on faith that we will get some kind of new benefit if the Company gets its RDR plan? Exactly what part of this case that benefits them is the Company willing to take on faith?

b. The Company's RDR plan hurts ratepayers

The evidence in this case shows that the Company's RDR plan places new burdens and risks on ratepayers.

As Mr. Farley testified [Transcript, December 2, 2009, page 43 line 1 through page 45 line 21], the RDR plan transfers risk from the Company to the ratepayers. For example, the proposed inflation adder would mean that rates would go up to reflect whatever inflation happens to be in the broader economy. That is a new risk to the customer that the Company takes on today.

The Company's RDR plan is essentially a set of new revenue and cost trackers that are designed to protect and enhance the Company's revenue stream [Farley Surrebuttal, page 22, lines 9-17].

Unfortunately, that cannot be done without a corresponding opposite effect: giving ratepayers the burden of financial cover for the utility.

In its RDR proposal, the Company is asking for trackers to (1) protect its entire revenue requirement as a base, (2) cover its incremental capital investment, and (3) adjust other major categories of cost for inflation. The Company is also asking for several other trackers in this case, and has several existing cost trackers in its current rate tariffs.

Cost trackers provide benefits for utilities but usually end up costing the ratepayer more.

The paper titled “How Should Regulators View Cost Trackers”, issued by the National Regulatory Research Institute (NRRI) in September 2009 and referenced in Mr. Farley’s surrebuttal testimony [page 23, lines 1-14], provides the following insight concerning cost trackers in its executive summary:

“The author asserts that state commissions have not given adequate attention to the negative features of cost trackers, which are at odds with the public interest. Specifically, cost trackers diminish the positive effects of regulatory lag and retrospective reviews in deterring utility waste and cost inefficiency. Trackers could also reduce regulatory scrutiny in evaluating cost prudence.”

The Company's RDR plan would therefore deprive the Commission of tools it currently has to use price pressure to drive the utility to manage its costs and innovate [Farley surrebuttal, page 23, lines 17-20].

The Company's proposed RDR plan would allow a broad range of automatic rate adjustments that would mean that there could be rate increases without any required review of the Company's actual expenses overall or its actual earned returns on capital. Over time, the targeted revenue requirement will deviate more and more from actual revenue requirement, especially at the individual class level [Farley Direct Testimony, page 27, lines 17-22].

c. The Company's RDR plan weakens regulatory oversight

The Company's RDR plan will necessitate more frequent regulatory reviews of certain aspects of the Company's business, in particular revenues by class, capital additions, and inflation. However, the quality of regulatory review will be downgraded in several damaging ways.

There is a fundamental flaw in this approach. For one thing, the Company's costs and expenses other than capital additions will not be the subject of these reviews. In addition, the Company's cost of capital will not be reviewed. Costs by account are not the subject of these reviews, nor is the match between expenses and revenues at the class level.

There is no mechanism to adjust rates for specific real operating expense reductions that occur.

There will be frequent cursory reviews of select sanitized items, but no complete or thorough scrutiny of the entire ratemaking picture.

These more frequent filings by the Company will place significant new burdens on the Commission and the Division to deploy more resources and talent to perform the required reviews [Farley Surrebuttal, page 16 line 11 through page 20 line 4]. The Division's witness, Mr. Oliver, concurred that the Company's decoupling proposals would require substantial ongoing review activity the Commission as well as the Division and other parties, thereby increasing regulatory expenses for all parties. The Division in particular has concerns about whether all of the proposed filings could be reasonably and appropriately reviewed within the appropriate time schedules [Transcript, December 1, 2009, page 84 line 16 through page 85 line 13].

d. The Company's proposed uniform cents per kWh adjustment is not an appropriate mechanism

One of the major shortcomings of the Company's revenue decoupling mechanism is that it creates inequities in the treatment of customers across rate classes and within rate classes. The analysis of the Division witness Oliver led him to conclude that the application of a uniform cents per kWh adjustment for all classes does not provide an appropriate solution for the Company's rate classifications. All classes do not provide the same cents per kWh of revenue. When you apply a uniform adjustment, the classes that have lower cents per kWh average costs at present rates are hit with a much higher increase. According to Mr. Oliver:

“As a result, uniform cents-per-kWh revenue adjustments would have significantly larger percentage rate impacts on the Company’s medium and large C&I customers without regard to either the source of revenue over- or under-collections or the relationship between actual revenue and the Company’s costs of providing service by rate class [Oliver Direct Testimony, page 35, lines 3-7].”

TEC-RI therefore petitions the Commission to reject any uniform cents-per-kWh adjustment factor and instead order the Company to allocate revenue shortfalls or excess according to established cost of service allocators, and adjust the existing distribution rate charges (customer charge, demand charge, energy charge) for each class to collect or return these revenues.

e. The Company’s RDR plan is complicated rate engineering with unclear objectives

The record in this case proves that the Company’s RDR plan is complicated. The Company’s witness Dr. Tierney needed 97 pages of testimony to describe it. The schedule of RDR plan filings requires careful study to understand. It was difficult to discern whether this was a two part plan [“Look Back” and “Look Ahead”], a three part plan [Revenue reconciliation, Inflation adjustment, Capital tracker], or a four part plan [Decoupling revenues from kWh, inflation, cumulative capital additions, and capital expenditures in the current year]. When reading testimony from intervenors who supported the Company’s RDR plan, it was difficult to decipher in many places whether they were discussing the Company’s RDR plan as filed or something simpler that they preferred to discuss!

What's more, the Company's RDR plan is forced to rely on a plethora of estimated and forecasted values. When pressed by the Company's witness to back up this claim, Mr. Farley was able in his surrebuttal testimony to cite 10 places where the Company in its own descriptions stated that forecasts and estimates will be used [Farley Surrebuttal page 25 line 1 through page 28 line 9].

Perhaps even more troubling, though, is the fact that at the end of the case it is still unclear what the objective of this RDR plan is.

It's not more energy efficiency. The Company's witnesses were unable to make any concrete commitments in that regard.

Is it the increased financial integrity of the Company? Perhaps, but then why did the Company's decoupling witness, Dr. Tierney, make this statement in her Direct Testimony [page 69 of 97, lines 11-18]:

“Revenue decoupling is important as a step towards accomplishing the state's goals for the adoption of all cost-effective energy efficiency. It is likely, however, to diminish the ability of distribution utilities to raise capital between rate cases from internally generated funds derived from revenue growth. Traditionally, a utility company is accustomed to relying on revenue growth from increases in kWh deliveries in between rate cases in order to provide funds to support its

operations and investment, Revenue decoupling undermines that ability because increases in revenue received between rate cases are flowed back to customers.”

It is tempting to adopt the label “Rube Goldberg” to the Company’s RDR plan, but even Rube Goldberg machines accomplished something simple, albeit through complex means.

What simple thing does this RDR plan accomplish?

That combination of excessive complexity and muddled objectives is lethal to sound ratemaking. If this were a complicated methodology but it had a clear and compelling purpose, a case might be made to adopt it. If this had multiple and somewhat unclear objectives but the method was simple to adopt and produced predictable results, then a case might be made to use it.

However, the Company’s RDR plan has neither of these virtues. It needs to be rejected.

### CONCLUSION

For the reasons stated above, TEC-RI respectfully asks the Commission to do the following:

1. **Revenue Requirements.** Approve the Division’s recommended adjustments.
2. **Backup Rates.** Eliminate all backup rates. Allocate revenue shortfalls to all classes.

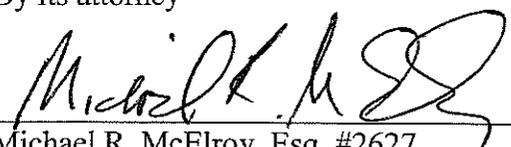
3. **Cost of Service/Rate Design.** Accept the Navy's recommendations for Cost of Service. Accept the Company's proposals for allocating uncollectible accounts and bad debt costs. Reject the Division's proposal to shift costs to C&I Large Demand. Limit the distribution rate increase for customers greater than 8 MW to 150% of the average rate increase, and redesign rates accordingly.

4. **Transmission Rate Design.** Approve the Company's proposal for transmission rate design.

5. **Other Adjustment factors.** Reject the uniform per kilowatt hour adjustment factors. Allocate costs to classes using the appropriate cost of service allocator. Collect revenues by adjusting the existing charges (customer, demand, energy) for each class proportionately.

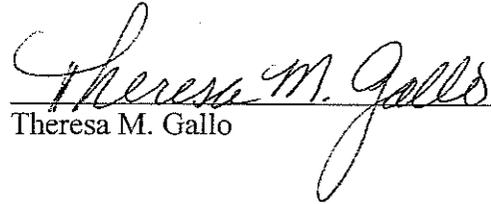
6. **Decoupling.** Reject the Company's RDR plan, or in the alternative, require the Company to collect any adjustments using cost of service allocators and proportional adjustments to the rate charges in each class, and not a straight per-kWh adjustment.

Respectfully submitted,  
The Energy Council of Rhode Island  
By its attorney

  
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CERTIFICATE OF SERVICE

I hereby certify that on the 22<sup>nd</sup> day of January, 2010, I sent a true copy of the foregoing to the service list.

  
\_\_\_\_\_  
Theresa M. Gallo

**National Grid (NGrid) – Request for Change in Electric Distribution Rates  
Docket No. 4065 - Service List as of 10/28/2009**

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