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October 27, 2009

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

Re: National Grid
Docket No. 4065

Dear Luly:

Enclosed are an original and nine copies of the surrebuttal testimony of John Farley on behalf of The Energy Council of Rhode Island in this matter.

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

Very truly yours,

Mike

Michael R. McElroy

MRMc:tmg
cc: Service List

BEFORE THE

STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS

PUBLIC UTILITIES COMMISSION

In Re: NARRAGANSETT ELECTRIC COMPANY d/b/a NATIONAL GRID RHODE ISLAND ELECTRICITY	**Docket No. 4065 Application for Approval of a Change in Base Distribution Rates**

SURREBUTTAL TESTIMONY

of

JOHN FARLEY

Submitted on Behalf of The Energy Council of Rhode Island (TEC-RI)

October 27, 2009

Surrebuttal Testimony of John Farley
Submitted on Behalf of The Energy Council of Rhode Island (TEC-RI)
Docket No. 4065

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INTRODUCTION

a. Purpose

Q. Are you the same John Farley who previously filed Direct Testimony in this proceeding?

A. Yes I am. I provided Direct Testimony dated September 15, 2009 on behalf of The Energy Council of Rhode Island (TEC-RI).

Q. What is the purpose of this surrebuttal testimony?

A. The purpose of my surrebuttal testimony is as follows:

The first specific purpose is to respond to (1) the Direct Testimony of David J. Effron on behalf of the Division of Public Utilities and Carriers ("the Division"), filed September 15, 2009; (2) the Direct Testimony of Dr. Dale E. Swan on behalf of the Division, filed September 15, 2009 ; (3) the Direct Testimony of Bruce R. Oliver on behalf of the Division, filed September 15, 2009; (4) the Direct Testimony of Ali Al-Jabir on behalf of the U.S. Department of the Navy ("Navy"),filed September 15, 2009; (5) the Rebuttal Testimony of Howard S. Gorman on behalf of Narragansett Electric Company ("the Company"), filed October 6, 2009; and (6) the Rebuttal Testimony of Susan F. Tierney on behalf of the Company, filed October 6, 2009.

My silence on any issues should not be construed as agreement with any particular recommendation or position.

The second specific purpose of this surrebuttal testimony is to provide an update to the table, originally provided with my Direct Testimony, that presents the positions that TEC-RI is taking in this docket. The updated table reflects modifications made as a result of our review of other parties' direct and rebuttal testimony.

b. Overview of Testimony

Q. Please provide an overview of your surrebuttal testimony.

A. My surrebuttal testimony is organized in six sections:

- First, I will provide an overview of my surrebuttal testimony;
- Second, I will comment on the Division's testimony concerning revenue requirements;
- Third, I will respond to the testimony from the Division and the Navy, as well as the rebuttal testimony of the Company, on the matter of the cost of service study;
- Fourth, I will comment briefly on rate design issues;
- Fifth, I will comment on the Company's rebuttal testimony as well as the Division's testimony concerning the revenue decoupling ratemaking plan;
- Sixth, I will summarize my testimony.

c. Executive Summary of Surrebuttal Testimony

Q. Please provide a summary of the issues addressed in your combined direct and surrebuttal testimony.

A. In my testimony, I address the following six issues: (1) the proposed amount of increase in Revenue Requirements; (2) the appropriateness of the Cost of Service study with respect to the current G-62/B-62 and G-32/B-32 rate classes; (3) the reasonableness of the proposed new Rate Designs for G-32 and B-32 with respect to the disproportionate impact on current G-62 and B-62 customers ; (4) the proposed Transmission Rate Design; (5) proposals for other adjustment factors; and (6) the Company's Revenue Decoupling Ratemaking proposal.

Q. Please provide a summary of TEC-RI's positions on the issues.

A. Certainly. The following table presents the positions that TEC-RI is currently taking in this docket, taking into account refinement of those positions in this surrebuttal testimony:

Issue	**Company Witness and Testimony**	**TEC-RI Position**	**Supporting Testimony**
1. Revenue Requirements	Robert O'Brien	Disagrees with the Company; Agrees with the Division	John Farley, Direct, pages 7-8, Surr. pages 8-9; David Effron, Direct, pages 2-5
2. Cost of Service Study	Howard Gorman, pages 4-23	See individual issues below	John Farley, Direct, pages 8-11, Surr. pages 9-15
2a. Navy positions		Agrees with the Navy	Ali Al-Jabir, Direct, pages 8-25; Farley, Surr. page 10.
2b. Allocation of Uncollectibles		Agrees with the Company	Gorman, Rebuttal, pages 4-5; Farley Surr. page 11.
2c. Allocation of A-60 Subsidy		Agrees with the Division	Dale Swan, Direct, pages 22-25; Farley Surr. page 12.
2d. Shift of Transmission Costs to C&I Large Demand		Disagrees with the Division Agrees with the Company	Farley, Surrebuttal, page 12
2e. G-62/B-62 Increases		Disagrees with the Company	Farley, Surrebuttal, page 13
2f. Allocation of Bad Debt for SOS		Agrees with the Company	Farley, Surrebuttal, page 13.

2g. Lack of even-handedness with Business Customers		Disagrees with the Division	Farley, Surrebuttal, pages 14-15.
3. Rate Designs for new G-32/B-32	Howard Gorman, pages 29-31	Disagrees with the Company	John Farley, Direct, pages 11-17
4. Transmission Rate Design	Howard Gorman, pages 36-41	Agrees with the Company	John Farley, Direct, pages 17-19.
5. Other Adjustment Factors	Howard Gorman, pages 43-45	Disagrees with the Company	John Farley, Direct, pages 19-22
6. Revenue Decoupling	Susan Tierney	Disagrees with the Company	John Farley, Direct, pages 23-30, Surr. pages 15-33; Bruce Oliver, Direct, pages 11-58

Q. Please describe the remedies you are requesting from the Commission.

A. The remedies we are requesting for each issue are as follows:

(1) With respect to the Revenue Requirements, we disagree with the size of the Company's request as a general matter, although we are not taking any specific positions on particular adjustments at this time. We have reviewed the Division's testimony. We fully support the Division's analysis and recommendations regarding revenue requirements.

(2) With respect to the <u>Cost of Service study</u>, we find that the cost allocations to the current G-62 and B-62 classes are not appropriate. We have reviewed the Navy's analysis and recommendations. On this issue, we support the Navy's positions. We disagree with most of the Division's positions.

(3) With respect to the proposed <u>Rate Designs for the new G-32 and B-32 rates</u>, we asked the Commission in my direct testimony to (a) eliminate all backup rates, and (b) order the Company to redesign the combined G-32/G-62 rate so that large high load factor ratepayers see a distribution rate increase of no more than 1 ½ times the average distribution rate increase for the rest of the customers in the combined G-32/G-62 class. In the event that this is not feasible, we asked in my direct testimony that the Company accomplish the same thing by preserving a distinct G-62 rate that does not have a per kWh energy charge. We note that the Company has not filed any testimony challenging our recommendations to the Commission in this regard.

(4) With respect to <u>Transmission Rate Design</u>, we asked the Commission in my direct testimony to approve the Company's proposal for allocating transmission costs to rate classes, and we continue to support the Company's proposal.

(5) With respect to <u>all other adjustment factors in distribution rates</u>, we asked the Commission in my direct testimony to adopt the same approach as the Company has proposed for Transmission rates. We strongly urged the Commission to eliminate all per kWh surcharges or adjustment factors from the bill. Instead, we asked that any adjustments be built into the distribution rate structures each year, ensuring that these costs are allocated to rate classes using cost of service allocators appropriate to the nature of the costs so collected. We note that the Company has not filed any testimony challenging our recommendation in this regard.

(6) With respect to <u>Revenue Decoupling Ratemaking</u>, we continue to ask the Commission not to approve the Company's proposal for revenue decoupling. We have reviewed the Division's analysis and recommendations. We fully support the Division's analysis and recommendations regarding revenue decoupling ratemaking.

I. REVENUE REQUIREMENTS

Q. What is the first issue you are addressing, and what testimony are you commenting on?

A. The first issue is the revenue requirements issue. I am commenting on the direct testimony of David J. Effron, who filed direct testimony on behalf of the Division. I hasten to add that I am not presenting myself as an expert witness on the matters that Mr. Effron discusses, nor is TEC-RI offering me as such. Our understanding is that direct and surrebuttal testimony is the vehicle to make known the positions of the parties on issues in the case, and it is to that end that I direct my comments here.

Q. Please describe TEC-RI's position with respect to Mr. Effron's direct testimony.

A. In my direct testimony, I stated that TEC-RI's position is that the Company's proposed increase in its revenue requirements is excessive and out of proportion to any of the major factors that would drive an increase in revenue requirements.

Having now had the benefit of being able to review Mr. Effron's direct testimony, I further express TEC-RI's support for Mr. Effron's findings generally. 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, which is equal to 12.45% of rate year tariff revenues, is in line with what we calculated as the most that the ratepayer is able to absorb in this very difficult economic climate in Rhode Island.

Beyond this, we continue to rely on the excellent work of the Division and their expert witnesses with regard to revenue requirements in this case.

II. COST OF SERVICE

Q. Please provide an overview of your surrebuttal testimony in the matter of the cost of service study.

A. Certainly. My comments are made after reviewing (1) the Direct Testimony of Dr. Dale E. Swan on behalf of the Division, (2) the Direct Testimony of Ali Al-Jabir on behalf of the U.S. Department of the Navy ("Navy"), and (3) the Rebuttal Testimony of Howard S. Gorman on behalf of the Company.

On these matters, once again I present the positions of TEC-RI on technical matters that are fully addressed by other witnesses. I do not present myself as an expert witness on the subject of cost of service methodologies.

a. TEC-RI supports the Navy's positions

First, after reviewing the different arguments pro and con concerning the use of a minimum system study, TEC-RI supports the position of the Navy that the Commission should require the Company to conduct a Minimum Distribution System study and develop a class cost of service study ("CCOSS") that classifies and allocates distribution line costs in Accounts 364-368 into demand and customer components. [Al-Jabir, page 2, lines 16-19]

Second, TEC-RI also supports the Navy's proposal to allocate economic development costs to all customer classes on the basis of delivery service revenues, should the Commission decide to approve the economic development program despite the sound reasons given by the Division to reject it. [Al-Jabir, page 2, lines 20-24]

Third, we concur with the Navy that it is not reasonable to place the burdens of revenue subsidies, resulting from gradualism concerns or any other reason, completely on the Commercial & Industrial Large Demand class. [Al-Jabir, page 2, lines 25-31]

b. Allocation of Uncollectible Accounts - Delivery

I turn now to the direct testimony of Dr. Dale Swan on behalf of the Division.

First, TEC-RI respectfully disagrees with Dr. Swan's recommendation to allocate Uncollectible Accounts-Delivery on the basis of Total Delivery Revenue. It is more reasonable to allocate those costs directly to the classes where those bad debts originated. This is the Company's recommendation, and we agree with the Company on this issue. We base our position on Dr. Swan's own stated principle: "This is a fundamental aspect of an embedded cost of service study – that is, costs should be assigned or allocated to classes on the basis of the factors that caused each of those costs to be incurred." [Swan, Direct Testimony, page 5 line 24 through page 6 line 2] The factor that causes a residential customer bad debt to be incurred is indisputably located within the residential class. If one were to apply Mr. Swan's distinction between Mr. Smith and Mr. Jones [Swan, Page 14, lines 6 through 11] to any other cost of service allocator, he would draw the same conclusion. Mr. Smith didn't cause the peak load of Mr. Jones either, but those costs are allocated to the residential class.

c. Allocation of Rate A-60 subsidy

Second, we agree with Dr. Swan that the costs of the A-60 subsidy should be shared by all customer classes. This is consistent with our position on the economic development program costs.

d. Shift of transmission costs to C&I Large Demand

Third, we strongly disagree 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 to purportedly correct for a perceived need to mitigate transmission cost increases to the residential class. No rationale is given as to where the number came from or on what basis it is being done. This is an arbitrary decision to subsidize one class at the expense of another class. What's more, Dr. Swan's own table shows that under his scheme the increase to the C&I Large Demand (29.3%) is greater than the increase to Residential (26.8%) even BEFORE this arbitrary shift is applied [Schedule DES-4, Page 2 of 4, line 5].

e. G-62/B-62 increases

Fourth, we agree with Dr. Swan that the increases being imposed on existing G-62/B-62 customers are significant and will adversely affect output and employment. We wish, however, that Dr. Swan had made a firm recommendation rather than a suggestion. Further, we note that the way Dr. Swan handled similar concerns for other classes was to submit new tables and adopt permanent shifts in revenue. Here he only suggests that perhaps the Commission could allow a phase-in of the new rates over three to five years. Why a phase-in? Why do some classes get a permanent adjustment to revenues and rates but not the G-62/B-62 customers? We do not understand why the Division's witness would not treat large business the same way he treats other classes when it comes to gradualism and mitigation of large increases.

f. Allocation of Bad Debt Costs - SOS

Fifth, for the same reason noted above with respect to Uncollectible Accounts – Delivery, we disagree with Dr. Swan's recommendation to allocate the bad debt costs in the SOS Administrative Cost Factor on the basis of SOS energy deliveries. Again, we agree with the Company's witness, Mr. Gorman, that bad debt expense, especially commodity-related bad debt expense, should be directly assigned to the classes that incur those debts [Gorman, rebuttal, page 5 line 16 to page 6 line 14].

g. Lack of even-handedness with business customers

Finally, TEC-RI detects a certain lack of even-handedness with which the Division's witness has handled cost of service matters between residential and business customers in this case to date. Nearly every change that the Division has recommended shifts costs from the residential class to the business classes.

The Company wants to increase distribution rates on the C&I Large Demand customers by 23% - by approximately $ 9 million over existing distribution revenues of $ $39.5 million. With the changes to the cost of service and revenue allocation recommended by the Division, that rate increase would be 42% - $16.5 million. The effect of the Division's cost of service changes would be to almost double the rate increase for our largest businesses, institutions, and employers.

The Division has a charter to protect all ratepayers, including business ratepayers. This disregard for the interests of business customers in the matter of the cost of service is disappointing. More importantly, it does not serve the public interest. Our state is suffering economically under horrible unemployment rates. It is the business sector that creates jobs. This one-sided approach certainly won't make that job any easier.

We implore the Commission to reject the Division's approach, and give business customers a fair shake regarding cost of service and rate design.

III. RATE DESIGNS FOR G-62/B62, TRANSMISSION RATE DESIGN, AND OTHER ADJUSTMENT FACTORS

We note approvingly that the Company has not taken any position in opposition to any of TEC-RI's rate design recommendations for G-62/B-62, transmission rate design, or the other adjustment factors.

IV. REVENUE DECOUPLING

Q. What is TEC-RI's position on the Company's proposed Revenue Decoupling Ratemaking plan?

A. TEC-RI is opposed to the proposed Revenue Decoupling Ratemaking ("RDR") plan that the Company filed in this case. After a review of his testimony, TEC-RI supports the findings and recommendations of the Division's witness, Bruce Oliver, with regard to the proposed RDR plan in this case.

Q. One of the key points you made in your direct testimony is that the Company's RDR plan weakens regulatory oversight. Dr. Tierney, the

Company's decoupling witness, takes issue with that. How do you respond?

A. Right. I make two main points in my direct testimony about the Company's RDR plan. First, the plan weakens regulatory oversight. Second, the plan hurts ratepayers.

Dr. Tierney argues that the plan does not weaken regulatory oversight because in fact it provides for more frequent regulatory review and oversight than has existed in many years. [Tierney, rebuttal testimony, page 5, lines 2-4].

I concede the point that the RDR plan does introduce new filings that occur frequently. However, the strength of regulatory oversight cannot simply be measured by the frequency of filings. What really matters is the quality of the review. By quality I mean the content of the review, the resources that can be dedicated on behalf of ratepayers to conduct the review, and the time allowed to conduct that review.

When I show up to this rate case, as a ratepayer, I feel like I have a solid front line blocking for me. There's Mr. Effron over there making sure we don't get blitzed on the revenue requirements side. There's Mr. Hahn watching out for us in the area of Inspections & Maintenance, Vegetation Management, the Capital Plan, and the Facilities Plan. Mr. Gay is reviewing the Uncollectibles & Bad Debt situation, while

Mr. Bruce Oliver is tackling Revenue Decoupling, Economic Development, and the Recovery of Uncollectibles- Bad Debt expense. Mr. Kahal is scrutinizing the cost of equity/rate of return, while Mr Smith is watching over the affiliate costs. And there's Dr. Swan....well, OK, as a business ratepayer I <u>mostly</u> feel very well protected by the Division's very capable witnesses!

But I have also participated in the annual filings that this utility makes. When I show up for example at the year-end electric retail rate filings, or the DAC filings on the gas side, there just isn't that same kind of protection. That's not surprising; it's just not feasible to bring that whole team out to these more frequent proceedings. Dr. Tierney admits as much when she writes that the inflation adjustment reflects "changes in costs, as measured by an independent, third-party index of economy-wide costs, for elements of the Company's cost of service that would be too costly to review through annual rate proceedings" [Tierney, rebuttal testimony, page 23, lines 7-9].

I have a great deal of respect for Dr. Tierney, and I think she is honestly describing how she sees this plan. But two people can see the same facts and respond to them very differently. As a witness testifying for a utility that has access to high levels of expertise whenever the utility wants to access that expertise, it can be difficult to relate to how a privately-funded, non-profit ratepayer group like TEC-RI might see the world of regulatory proceedings quite differently. And the fact is that TEC-RI is much better situated to respond to regulatory activities than many other segments of the ratepayer community.

For example, I can attest to a certain level of frustration in trying to make sense of the Company's transmission filings every year. The transmission filing has a feature in common with the Company's proposed RDR plan. That is, it projects capital project costs for the next year, and there is a true-up the following year. However, while that may sound straightforward, in practice keeping track of these capital projects has been a real challenge. There have been major under-collections. In the past six years, the Company has sponsored 5 different transmission witnesses. In only one year was the witness the same as the year before, making it that much more difficult to reconcile one year with the previous year. Every year, there is a new list of transmission projects. Some years the format changes. So it really makes oversight difficult, particularly with limited time and scaled-back resources. This mitigates against the ratepayer and in favor of the Company, who after all is the keeper of the data and has a huge "home field" advantage, to the point where often no one really gets a complete understanding of things but the Company themselves.

The Division has excellent expert witnesses in this case who are examining all the different aspects of the Company's revenue requirement as well as the new proposals from the Company.

But it has not proven to be feasible for the Division to hire similar amounts of expertise for the year-end rate filings. With more of these frequent filings occurring all the time in the future, the Division simply will not have to resources to be able to devote the talent and time required to scrutinize all the elements of the rate increase then they way they do with rate cases. A similar unreasonable burden will be placed on the Commission.

Does anybody really think that the Division will be able to hire all this talent twice a year to review these frequent filings by the Company? Actually, we do not have to guess at the answer. The Commission web site tracks the annual filings that occur today. Keep in mind that the Company plans to have two filings per year for its RDR plan.

Here is a snapshot comparing the resources dedicated to this rate case in comparison with the annual retail rate filings for the past five years:

		2009	2008	2007	2006	2005
	Rate Case	Year End	Year End	Year End	Year End	Year End
Docket:	4065	4011	3902	3788	3706	3648
Number of Company Witnesses	10	3	3	3	3	3
Number of Division Witnesses	7	0	1	1	1	0

So while it is true that the <u>frequency</u> of regulatory review would increase under the Company's RDR plan, it is not the case that the <u>quality</u> of review, in terms of content available for review or the level of scrutiny applied to that review, will increase.

Q. Dr. Tierney also states that the proposed annual adjustments are necessary if the Company is to fully recover its costs given the elimination of year-to-year growth in total revenue requirements under revenue decoupling [Tierney, rebuttal, page 23, lines 15-18]. What is your response to that?

A. I am confused. I thought that the point of revenue decoupling is to help the Company recover its costs, not make it more difficult.

I read the Company witness on decoupling, and it sounds for all the world like revenue decoupling for the electric utility creates more problems than it solves.

It will prevent the Company from receiving incremental revenues associated with the growth in sales. The Company relies on these revenues to fund its capital and infrastructure investment.

That sounds to me like revenue decoupling hurts the Company financially.

If revenue decoupling makes things worse for the Company than no revenue decoupling – what's the point? Ratepayer advocates don't like it either.

So let's save ourselves a lot of wear and tear and just drop the whole thing. Let's forget about decoupling, and work hard to keep rates low. That will boost economic development and sales, and the Company will have its revenue to fund infrastructure projects.

Q. In your direct testimony, you also stated that ratepayers lose protections under the Company's plan. Dr. Tierney disputes your conclusion. In fact, she maintains that customers will reap the benefits of actions taken by utility managers to lower costs under the Company's RDR plan, because of the 0.5 percent productivity offset [Tierney, rebuttal, page 40 line 16 through page 41 line 3]. Can you expand on why you think ratepayers lose out under the Company's plan?

A. Certainly. First of all, with respect to the 0.5% productivity offset, Dr. Tierney talks about that as if we already had all the other elements of this plan in place, and now the Company is generously introducing the offset alone. The fact is, today ratepayers enjoy a rate freeze with no inflation adder. The Company proposes to use the GDP price index as a proxy for inflation. The annual percent change for the GDP price index posted on the Bureau of Economic Analysis web site [www.bea.gov] has averaged well above 0.5% over the last five years.

So the bottom line is ratepayers who had enjoyed a rate freeze for the past five years will now almost certainly see annual rate increases under the Company's proposed RDR plan. The fact that the inflation part of that increase is 0.5% less than it could have been is only enjoyable if you are the kind of person who, when getting hit over the head, takes out a hammer and starts hitting your thumb as well, because it will feel so good when you stop!

The fact is that this revenue decoupling ratemaking plan is really three proposals in one. It is called revenue decoupling, but that is actually only one part of it. The plan includes (1) revenue decoupling, (2) a capital tracker, and (3) a request to adjust rates every year for the impact of inflation.

In effect, then, the Company is asking for trackers to (a) protect its entire revenue requirement as a base, (2) cover its incremental capital investment, and (3) adjust other major categories of cost for inflation. And this is on top of several other adders/trackers that the Company is also introducing for the first time in this case.

We are seeing a proliferation of cost trackers being requested by this utility in the past few years. Cost trackers provide benefits for utilities but usually end up costing the ratepayer more.

This is not just my view. It is expressed in a paper titled "How Should Regulators View Cost Trackers?", issued by the National Regulatory Research Institute (NRRI) in September 2009. The NRRI was formed by the National Association of Regulatory Utility Commissioners in 1976 to provide research, educational services, and policy reports on state regulation of electric, natural gas, telecommunications, and water utilities.

The Executive Summary includes the following paragraph:

"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."

Utilities often talk about regulatory lag as if it were illegal, immoral, and fattening. But we ratepayers actually like regulatory lag quite a bit. It keeps rates lower than they otherwise would be, and it is one of the major tools that regulators have to bring the regulatory equivalent of competition into play with price pressure that drives utilities to manage their costs and innovate.

We can argue about the minutia all day and all night, but that is not how the average ratepayer sees things. They look at the current ratemaking and compare it to what the company proposes.

For the average ratepayer, here is the bottom line: If the Company gets what they are asking for in this rate case, will the ratepayer be better off than he was five years ago?

Let's compare the deal being proposed for ratepayers this time around versus what was approved last time, in 2004, in docket 3617.

Fixed rates for 5 years? Gone.
Excess earnings sharing mechanism? Gone.
Regulatory lag as an incentive for the utility to control costs? Greatly diminished.
Review of the Company's rate of return and cost of equity next time the utility files for a distribution rate change under the RDR plan (which will be in 2010 effective January 1, 2011)? Gone.

The ratepayers are <u>not</u> better off than they were five years ago. Rhode Island ratepayers stand to lose many protections if the Company's proposed ratemaking approach in this docket is approved.

Q. Dr. Tierney states that you "grossly" overstate the use of forecasted information in the RDR plan. Is she right?

A. I am not sure how exactly to quantify "grossly", but I will attempt to point out the specifics to which I was referring. And to do that I can do no better than to quote Dr. Tierney herself as she describes the process.

The RDR plan includes a "Look Back" and a "Look Ahead" component. In the Look Ahead portion, there is a Current Year Net CapEx adjustment. "The second adjustment is the Current Year Net CapEx adjustment and will account for the incremental effect of Net CapEx anticipated in the coming (or "current") year." [Tierney, direct, page 88, lines 15-17] If a cost is "anticipated", it has not occurred yet and therefore must be estimated with a <u>forecast</u>.

The Look Ahead also has a projected Net Inflation Adjustment. According to Dr. Tierney, the annual GDP-PI is calculated as the average of quarterly measures of the GDP-PI as of the second quarter of the year". [Tierney, direct, page 90, lines 13-14] That means that the first two quarters of one year are used to <u>forecast</u> the value for the next year.

But the forecasting is not limited to the Look Ahead.

Here is how Dr. Tierney describes the Company's November 1 filing:

"Then, by November 1 of each year, the Company proposes to supplement its July 1 filing with additional months of more recent actual CapEx data. The November 1 filing would therefore contain the following: (a) a proposed RDR Plan Revenue Reconciliation based on the reconciliation of actual revenue against ATR for the current year, which will be based on provided information regarding distribution revenue (actual through September and <u>estimated</u> for October through December), the inflation index measured through <u>June</u> of the instant filing year, and Cumulative Net CapEx through the reconciliation period (reflecting all approved Net CapEx, including actual Net CapEx for January 1 through the most recent month available at the time of filing for the current year, and <u>estimates</u> for remainder of the calendar year, through December)" [Tierney, direct, page 92, lines 7-16, emphasis mine]

This is a mouthful, so let's take it piece by piece.

The reconciliation will be made based on estimated distribution revenue for October through December. That means that the October through December revenue is a <u>forecast</u>.

The inflation index is measured through June of the current year. But this is done on a calendar year basis, and the calendar year ends in December. So the inflation index that is used is also a <u>forecast</u>.

Net CapEx is also calculated using estimates, meaning that it also is a forecast as opposed to an actual value.

As we keep reading, we learn that (1) this forecast data is used for the Look Back; (2) this forecast data is also used for the Look Forward, and (3) the entire 12 month period is forecasted in the Look Forward. That includes "a forecast of kWh deliveries for the upcoming calendar year" [Tierney, direct, page 92, line 21,emphasis mine].

Dr. Tierney goes on to describe the period over which the revenue requirement for the Net CapEx and Net Inflation adjustments will be made. "The Company is proposing to complete the calendar-year analysis of its reconciliation by reflecting up to nine months of actual data and three (or more) months of estimated data, and proposes to do a final true-up reconciliation of those estimated months in the following annual RDR Plan filing". [Tierney, direct, page 94, lines 1-4,emphasis mine.]

Then she qualifies the true-up: "the RDR Plan Adjustment Factor for a given year (in place from January 1 through December 31) will reflect the true-up of over/under-collection of revenue for the twelve-month period, even though that twelve-month period will contain estimated data." [Tierney, direct, page 94, lines 11-14, emphasis mine.]

So forecasts are used throughout, both for the Look Back and the Look Ahead.

Moreover, the inflation component is not only a forecast; it is a proxy on top of that. In that way it is two steps removed from the actual data. Yet, there is no true-up proposed by the Company to adjust for the difference between the inflation adder cost changes and actual cost changes.

Q. Dr. Tierney in her rebuttal testimony states that you do not understand the Company's RDR Plan. How do you plead?

A. I concede the possibility that I may not completely understand every detail of the Company's revenue decoupling ratemaking plan. For one thing, it is a very complicated plan. For another, I am not completely confident that is has been completely fleshed out and thought out by the Company in its filing. Let me give a couple of examples.

First, the Company maintains that it will "identify and file for approval each year all of its distribution-related capital investments that have occurred during the prior twelve months, and the Commission will approve those expenditures for recovery before the revenue requirement associated with these capital expenditures can be included in ATR." [Tierney, direct, page 79,line 20 through page 80, line 2]

Yet, when the Company actually describes the process, it talks about an ATR that includes estimates for the amount of approved Net CapEx [Tierney, direct, page 92, lines 10-16]

Second, it is not certain exactly what published index the Company proposes to use for its inflation adjustment. It states that it will use the Gross Domestic Product Price Index (GDP-PI). It states that "the GDP-PI is measured by the U.S. Department of Commerce's Bureau of Labor Statistics" [Tierney, direct, page 82, line 7]. However, the Bureau of Labor Statistics is not part of the Department of Commerce. It is part of the Department of Labor. There IS a Bureau of Economic Analysis that sits under the Department of Commerce and does publish GDP-PI. And it provides more than one index.

The Company's RDR plan very complicated, and apparently this is a feature of decoupling plans generally. I note the Closing Observations in Dr.Tierney's schedule NG-SFT-R-3:

"Finding all of the decoupling mechanisms and summarizing the adjustments made under them was an exceedingly difficult task. I have a total of over 25 years in utility matters, most spent in the regulatory affairs department of a mid-sized electric utility. I know my way around a tariff and am generally familiar with naming conventions and so forth used by public utility commissions. Despite this wealth of experience, the task was difficult. This caused me to wonder what those not on the "inside" can possibly think of how utilities and regulators present information? Most would not think that the obfuscation was deliberate but many would conclude that ensuring people actually understood utility rates and regulation was not the goal."

Not only is the Company's proposed RDR plan exceedingly complicated, but the Company is also sending mixed signals with regard to decoupling. On the one hand the utility says that revenue decoupling, breaking the link between kWh sales and revenues, is necessary. Yet on the other hand they have made rate design choices that actually <u>increase</u> the link between kWh sales and revenues. For example, the Company already had decoupling for the G-62 class, and they took it away when they designed their proposed rates in this case. The simplest way to institute decoupling is to simply do away with the energy charges, the per-kWh charges. That way, the Company does not lose any revenue at all when kWh usage declines. The current rate G-62 does not have an energy charge. Yet inexplicably the Company's proposed rate design change results in <u>adding</u> a kWh charge for current rate G-62 customers, a charge that was not there before.

Here is what I have concluded is really going on with the Company's RDR plan. They have realized that revenue decoupling as it is normally applied, where the utility is made whole on its revenue requirements as approved in the most recent rate case, will actually hurt the Company financially. The Company's decoupling witness testified that revenue decoupling undermines the ability for a utility to rely on revenue growth from increases in kWh deliveries in between rate cases because increases in revenue between rate cases are flowed back to customers. [Tierney, direct, page 69, lines 11-18]

Please note carefully what is <u>not</u> being said. Dr. Tierney is NOT saying here that energy efficiency prevents the Company from receiving these revenues. No, it is the <u>decoupling mechanism</u> that does this.

As a result, the Company has produced a new layer of ratemaking to attempt to fix the new problem that revenue decoupling itself introduces.

Unfortunately, this becomes a very complicated form of rate engineering that is almost impossible to get right.

It reminds me of a children's story that I read when I was a boy and now I read to my own children. It is called "The Cat in the Hat Comes Back". You may have read it yourself.

The Cat in the Hat eats cake in the bathtub, and leaves a pink bathtub ring. He removes his hat and reveals little Cat A. Little Cat A takes his hat off and there is Little Cat B, who in turn reveals C, and so on all the way down to a microscopically small Little Cat Z, who turns out to be the key to the whole plot.

Preliminary attempts to clean up the pink mess fail as they only spread the pink stuff to even worse places, like a dress, and the wall, and the bed. The pink blob eventually spreads outside, where a spot killing war takes place, joined in by the Cat in the Hat, Little Cats A through V, and a bunch of weapons including pop guns and a lawnmower. But all this just makes the disaster worse until the pink spot covers the entire yard.

At which point Little Cats V, W, X, and Y take off their hats in turn to reveal Little Cat Z. Little Cat Z takes his hat off and unleashes the secret weapon called "Voom" which cleans up the entire mess and stuffs all the Little Cats back into the hat of the Cat in the Hat.

The ring in the bathtub is the theory that utilities perceive a disincentive with regard to implementing energy efficiency programs.

Revenue decoupling alone is Little Cat A. When that makes things worse for the utility, it's time for Little Cats B and C. These correspond to the capital tracker and the inflation adjustment in the Company's RDR plan.

But we know how this story goes. It won't end with Little Cat C. It is a sure thing that Little Cat C will create problems of its own in some new and unforeseen way.

We can anticipate more new adders and adjustments to fix the unforeseen problems that will arise if we implement the Company's plan.

So unless somebody knows where we can get some Voom, I would recommend we hold on to our hats and stick with what works: the traditional rate case.

CONCLUSION

Q. Please summarize the requests that TEC-RI is making in this docket.

A. Certainly. I will describe the remedies we are requesting for each issue we have raised:

(1) With respect to the Revenue Requirements, we disagree with the size of the Company's request, and we support the Division's recommended adjustments.

(2) With respect to the Cost of Service study, we are asking the Commission to find that the proposed cost allocations to the current G-62 and B-62 classes are not appropriate. We support the Navy's positions. We support the Company and not the Division with respect to allocating uncollectible accounts and bad debt costs. We agree with the Division concerning the allocation of the rate A-60 subsidy. We disagree with the Division with regard to their proposal to unilaterally shift costs to C&I Large Demand related to mitigating transmission rate impacts for residential customers.

(3) With respect to the proposed Rate Designs for the new G-32 and B-32 rates, we are asking the Commission to (a) eliminate all backup rates, and (b) order the Company to redesign the combined G32/G62 rate so that large high load factor ratepayers see a distribution rate increase of no more than 1 ½ times the average distribution rate increase for the rest of the customers in the combined G32/G62 class.

In the event that this is not feasible, we ask instead that the Company accomplish the same thing by preserving a distinct G-62 rate that does not have a per kWh energy charge.

(4) With respect to Transmission Rate Design, we are asking the Commission to approve the Company's proposal for allocating transmission costs to rate classes.

(5) With respect to all other adjustment factors in distribution rates, we are asking the Commission to adopt the same approach as the Company has proposed for Transmission rates. We strongly urge the Commission to eliminate all per kWh surcharges or adjustment factors from the bill. Instead, we ask that the costs associated with adjustment factors, if any, be allocated to classes using the most appropriate Cost of Service allocator. Further, we ask that the resulting costs be collected by adjusting the distribution rate charges in an appropriate manner given the cost category or categories involved. Since no category of cost is classified as energy based, the Company should be discouraged from simply applying the adjustment to the energy charge when it is more efficient to use the customer charge and/or the demand charge.

(6) With respect to Revenue Decoupling, we are asking the Commission to reject the Company's proposal for a Revenue Decoupling Ratemaking Plan in this filing.

Q. Does this conclude your surrebuttal testimony?

A. Yes it does.

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