STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: NATIONAL GRID'S :
DISTRIBUTION ADJUSTMENT CLAUSE : **DOCKET NO. 4077**

REPORT AND ORDER

I. NATIONAL GRID'S FILING

On August 3, 2009, National Grid ("NGrid") filed with the Rhode Island Public Utilities Commission ("Commission") its annual Distribution Adjustment Clause ("DAC") for effect November 1, 2009.[1] The DAC is filed annually to establish a factor that returns or recovers funds from ratepayers to reconcile estimated costs to actual costs included in rates over the twelve-month period starting November 1st. The DAC provides for funding, or the reconciliation and refund, of amounts associated with nine specific programs and facilitates the timely rate recognition of incentive/penalty provisions. The DAC filing results in a factor that is applied to firm sales and firm transportation customers. The filing does not propose a specific rate because NGrid has not finalized the data for a number of the components. NGrid represented that it will supplement and update this filing in its September 1, 2009 filing.[2]

[1] In Docket No. 3401, February 28, 2003, the Commission ordered New England Gas Company to establish a Distribution Adjustment Charge for the purposes of crediting customers with any amounts associated with the earnings-sharing provisions of the Amended Settlement; refunding or recovering the amount by which non-firm margins deviate from $1.6 million; recovering LNG commodity costs associated with maintaining system pressures; crediting or collecting of any weather normalization adjustment revenues, and any other reconciliation of revenues or expenses approved by this Commission. On August 24, 2006, Narragansett Electric Company, doing business as National Grid, acquired the assets and gas business of Southern Union Company in Rhode Island, doing business as New England Gas Company. In Docket No. 3943, two additional factors were added: a Pension and Post-Retirement benefits factor and a Capital Expenditures Tracker factor.

[2] A table listing the eleven components of the DAC indicating the current factor, the factor as proposed by NGrid and the Division's recommendation is attached hereto as Appendix A.

The actual DAC factor results from eleven components, which are filed with a specific factor incorporated into the overall DAC factor. The component factors are:

(1) a System Pressure factor, in which 16.8 percent of LNG commodity costs, financing costs, and supplier demand costs are allocated to maintain system pressures in NGrid's distribution system;

(2) an Advanced Gas Technology (AGT") factor, which includes $300,000 annually in base distribution rates;

(3) a Low Income Assistance Program ("LIAP") factor, which collects $1,785,000 annually in base distribution rates consisting of; $1,585,000 in supplements to the Federal Low Income Home Energy Assistance Program ("LIHEAP") and $200,000 for a Low Income Weatherization Program, (the LIAP factor is zero unless the Commission changes the amount for LIAP funding);

(4) an Environmental Response Cost ("ERC") factor, which collects $1,310,000 annually in base distribution rates, but allows annual adjustments for incremental environmental costs or credits, such as insurance recoveries, which are amortized over a 10-year period through this factor;

(5) a Pension Costs and Post-Retirement Benefits ("PBOP")[3] factor, which reconciles pension and post-retirement benefits other than pensions expenses for the purpose of recovering or refunding the Company's actual expenses that were included in base rates;

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[3] The PBOP factor was approved by the Commission in Docket No. 3943. The Commission found that a reconciliation of these expenses was justified because the Company's pension and PBOP expenses were large and unpredictable. Additionally, the Commission noted that the pension program was funded at 97 percent and that the reconciling mechanism would provide ratepayers with the assurance that NGrid was funding its pension and PBOP funds at the same level as amounts collected by customers and that current ratepayers are not shifting these costs to future ratepayers.

(6) a Capital Expenditures Tracker ("CXT")[4], which refunds or collects from customers the revenue requirement impact associated with variations in capital spending including the Accelerated Replacement Program ("ARP");

(7) an On-System Margin Credit factor ("MC"), which provides for the sharing of non-firm sales and transportation margins. Ratepayers receive 75 percent of non-firm margins exceeding $1.6 million, while NGrid retains the remaining 25 percent which was in effect for the period prior to November 1, 2008. For the period after November 1, 2008, all revenue margins from dual fuel customers (firm and non-firm) as well as revenue margins from non-firm special contracts that exceed an annual threshold of $2,816,000 exclusive of Rhode Island Gross Earnings Tax are credited 100% to customers through the MC Factor.;

(8) a Weather Normalization factor, which represents an adjustment to NGrid's revenues to account for the impact of weather that varies by more than 2 percent from normal degree days during the preceding winter period of November through April;

(9) an Earnings Sharing Mechanism ("ESM") factor, which provides for the sharing and refunding of NGrid's excess earnings, whereby ratepayers receive 50 percent of earnings between an 11.25 percent and 12.25 percent return on equity("ROE"), and ratepayers receive 75 percent of earnings over a 12.25 percent ROE while NGrid retains the remaining share of earnings;

(10) a Reconciliation factor for the current DAC, which represents a true-up of the amount currently being collected for the nine DAC component factors approved by the Commission for the prior period; and

[4] The CXT factor was approved by the Commission in Docket No. 3943.

(11) a Service Quality Plan Penalty, which is for any penalty assessed against NGrid for service deificiencies as measured through the Service Quality Plan approved by the Commission in Docket 3476.[5]

In support of its filing, NGrid submitted the pre-filed testimony of John F. Nestor, III, Lead Analyst for Pricing and Regulatory for NGrid - Gas. Mr. Nestor's testimony described the DAC and the changes to the various components of the DAC. He presented factors for nine of the eleven components with the exception of the ESM factor and the Service Quality Plan Penalty. Mr. Nestor noted that the preliminary DAC rate of (\$0.0099) per therm was not finalized because necessary data was not available at the time of the filing. A supplemental filing will include the updated DAC rate and a bill impact analysis.[6] The current DAC rate is (\$0.0032) per therm.[7]

As for the System Pressure factor, NGrid proposed a decrease in the factor from \$0.0037 per therm to \$0.0034 per therm. The factor is based on the projected commodity related portion of LNG costs, including non-economic dispatch LNG costs and the percentage of local storage used to maintain system pressure projected from November 1, 2009 through October 31, 2010. Mr. Nestor noted that in Docket No. 3943, the Commission established a system balancing percentage of 16.8 percent which was also used in Docket No. 3977. Mr. Nestor pointed out that the LNG Operating and Maintenance costs are recovered in base rates.[8]

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[5] In Docket 3476, the Commission found that the general purpose of a service quality plan is to ensure that customers receive a reasonable level of service and identified five key aspects of any service quality plan as service measures, benchmark standards, the amount of the penalty, the penalty weight for each measure, and the time period for measuring performance to assess a penalty.
[6] NGrid Exhibit No. 1, Direct Testimony of John F. Nestor, III and attachments filed August 3, 2009 at 1-4.
[7] Docket No. 3977, Order No. 19562.
[8] NGrid Exhibit No. 1, Direct Testimony of John F. Nestor, III at 5, Attachments JFN-1, JFN-2.

Mr. Nestor explained that the AGT program[9] was established in Docket No. 2025 to promote the development of energy-efficient natural gas technologies that increase utilization of natural gas during periods of low demand. He noted that increased off-peak usage reduces the unit cost of gas for all customers by generating distribution revenues to support fixed costs associated with resources needed during peak periods. He explained that NGrid is proposing that the AGT account be set to zero and that the $300,000 in base rates be allowed to accrue as was originally designed.[10] He noted that one of the projects discussed last year, development of a cogeneration plant, has completed study design and is in the process of evaluating two alternatives. He pointed out that the project has a start date in 2011 and that the projected costs of the project are between $15-$25 million. That customer has notified NGrid that it intends to apply to the AGT program for rebate funding.[11]

Mr. Nestor stated that NGrid is not proposing to change the current level of funding provided by the LIAP factor, which provides additional funding to LIHEAP, and to a low income weatherization program. He noted that annual funding in distribution rates for LIHEAP and weatherization are $1,585,000 and $200,000, respectively. Regarding the ERC factor, NGrid proposed a decrease in the credit factor from ($0.0021) to ($0.0020) per therm. This factor reflects a 10-year amortization of environmental response costs. The proposed ERC factor reflects annual amortization of expenses totaling $763,801. Since there is $1,310,000 of ERC funding embedded in base rates,

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[9] NGrid refers to the DSM program as the Advanced Gas Technology Program ("AGT") so as to avoid any confusion with the Energy Efficiency Programs recently implemented by NGrid and that are sometimes referred to as DSM programs.
[10] In Docket No. 3977, the Commission followed the Division's recommendation to allow for a ($0.0008) credit to ratepayers because NGrid had a carry forward of $701,326.
[11] NGrid Exhibit No. 1, Direct Testimony of John F. Nestor, III at 6-8, Attachments JFN-1, JFN-3.

there will be a net refund to ratepayers of $546,199. Mr. Nestor noted that this calculation is based on preliminary data and will be updated if necessary.[12]

In Docket No. 3943, the Commission approved NGrid's proposal to reconcile pension and other post-retirement benefits other than pensions ("PBOP") through the DAC. The adjustment factor is based on the difference between the Company's actual expense for the prior twelve month period ending June 30 and the most recently approved base rate expense allowance.[13] The current computation is based on an eight month period ending June 30, 2009.[14] NGrid proposed a factor of $0.0024 for PBOP.[15] Also approved by the Commission in Docket No. 3943 was a Capital Expenditures Tracker ("CXT") adjustment mechanism.[16] Mr. Nestor noted that this adjustment was refunding or collecting from customers the revenue requirement impact associated with variations in capital spending, including the ARP. He noted that the Commission approved the Division's recommended formula to adjust the ARP. NGrid proposed an adjustment of ($0.0101).[17]

In the area of on-system (non-firm) margins, NGrid proposed a credit factor of ($0.0014) per therm. Mr. Nestor calculated that NGrid recorded $928,327 of non-firm margins, or $394,994 more than the 4/12ths of the annual base rate embedded $1.6 million threshold, which results in 75%, or $296,246, to be credited to customers and 25%, or $98,749 to be retained by shareholders for the July 2008 through October 2008

[12] Id. at 8-10, Attachment JFN-1, JFN-4.
[13] *Id.* at 10-11.
[14] The rates approved in Docket No. 3943 were for effect December 1, 2008.
[15] NGrid Exhibit No. 1, Direct Testimony of John F. Nestor, III, Attachments JFN-1, JFN-5.
[16] Docket No. 3943, Order No. 19562.
[17] *See* Docket No. 3943, Order No. 19710 where the Commission approved a one-time refund to customers for excess revenues recovered from the effective date of the rates to November 1, 2009 and 2) an ongoing credit to customers equal to the revenue requirement on the difference in the Company's actual average net plant in service and that which was included in NGrid's cost of service in Docket No. 3943. *Id.* at 11-13, Attachments JFN-1, JFN-6.

period. He noted that in Docket No. 3943, the Commission approved an agreement between NGrid, the Division, the Attorney General, the Energy Council of Rhode Island, Rhode Island Hospital and SilentSherpa Energy Consulting for a new structure and benchmark level for On-System margins. The agreement eliminated the 75%/25% sharing mechanism and established a new annual threshold level for firm and non-firm sales and transportation margins of $2,816,000. In determining amounts to be returned to customers, the agreement provided for the tracking of margins exclusive of the gross earnings tax for sixty-four (64) firm and non-firm dual customers at the time of the most recent rate case filing as well as any new non-firm customers and non-firm special contracts. These customers were referred to as "dual-fuel customers." For the eight month period ending June 30, 2009, NGrid expects to collect more than $1,879,800 and anticipates returning $207,409 to customers or ($0.0014) per therm.[18]

NGrid did not incur any service quality penalties for the fiscal year 2009. As to weather normalization, NGrid did not propose any adjustment to this factor. Mr. Nestor noted that during the winter period of November 2008 through April 2009, the weather was 159 degree days colder than normal. Because this is outside the 2 percent colder than normal deadband, there is a proposed adjustment of $1,431,000 to be credited to customers.[19]

Mr. Nestor explained that the earnings sharing calculation ("ESM") had not been completed, because NGrid's financial data for the fiscal year ending June 30, 2009 was not yet available. NGrid will supplement this filing and provide that calculation no later

[18] NGrid Exhibit No. 1, Direct Testimony of John F. Nestor, III at 13-16, Attachments JFN-1, JFN-7.
[19] *Id.* at 17, Attachment JFN-8. While the weather normalization clause provides for crediting/debiting customers when weather is warmer/colder than normal, it provides that in order to qualify for the $9,000 per day rate, the weather must be more than 2 percent warmer or colder than normal.

than September 1, 2009. As for the reconciliation factor for fiscal year 2009 and the gas year (November 2008 through October 2009), NGrid proposed a factor of $0.0015 per therm to recover an under-collection of the DAC in 2008 of $543,727.[20]

II. NGRID'S SEPTEMBER 2, 2009 FILING

On September 2, 2008, NGrid filed the supplemental testimony of John Nestor to incorporate updates to the DAC components included in the August 3, 2009 filing, as well as the earnings sharing component, and to show the calculation of the proposed DAC. His updates resulted in a DAC rate of $0.0117 per therm for firm service customers, or an annual decrease of $7.84 for residential heating customers. Mr. Nestor updated the system pressure factor calculation, the CXT factor calculation, the on-system margin credit factor calculation and the DAC reconciliation component factor calculation. Mr. Nestor also provided additional customer and rebate information on the AGT factor and an updated discussion on the calculation of the ESM.[21]

With regard to the system pressure calculation, he noted that the LNG costs are being updated to correspond with those included in NGrid's GCR filing, resulting in an increase from $0.0034 to $0.0038 per therm. Mr. Nestor noted that an educational institution is planning to file for a rebate that could exceed $1 million to be paid around May 2011 and proposed that an additional $300,000 of funding be allowed to accrue. Mr. Nestor explained that the CXT was updated leaving only 2 months of estimated data and resulting in an increase in the factor from ($0.0101) to ($0.0110). He updated his attachment on the margins for dual-fuel customers to include June 2009 figures which

[20] *Id.* at 18-24, Attachment JFN-9.

[21] NGrid Exhibit No. 2, Supplemental Testimony of John F. Nestor, III and attachements filed September 2, 2009 at 1-2.

were not available at the time of the initial filing. For the six months ending June 2009, he noted that the Company collected $410,365 in excess of the $1,879,800 threshold and that this amount combined with the $296,246 from the July 2008 through October 2008 period, results in an increased margin factor of ($0.0020) per therm which will result in $706,610 being returned to customers.[22]

Mr. Nestor also updated the reconciliation component of the August 3, 2009 DAC filing to incorporate actual throughput for July 2009, resulting in a decrease from $0.0015 per therm to $0.0008 per therm. He stated that NGrid's earnings calculation is being reviewed and will be filed with supporting testimony at a later date. Finally, he noted that the overall impact on the bill of an average residential hearting customer utilizing 922 therms is an annual decrease of five-tenths of a percent (0.5%) or $7.84 annually.[23]

III. NATIONAL GRID'S SEPTEMBER 16, 2009 FILING

On September 16, 2009, NGrid filed the testimony of William Richer. Mr. Richer provided the calculation of NGrid's earnings subject to the ESM factor for the fiscal year ending June 30, 2009 and provided updated information and supporting calculations for the Capital Expenditure Tracker and the Pension and Post-Retirement Benefits factor discussed in Mr. Nestor's testimony.[24]

Mr. Richer noted that the determination of earnings is based on a 10.5% return on equity excluding non-firm margins. Any amount in excess of the 10.5% up to 11.5% is shared 50 percent with customers and 50 percent with NGrid. Earnings in excess of 11.5% return on equity are shared 75 percent with customers and 25 percent with NGrid.

[22] *Id.* at 3-5.
[23] *Id.* at 5-7.
[24] NGrid Exhibit No. 3, Direct Testimony of William R. Richer and attachments filed September 16, 2009 at 1-2.

The return on equity is calculated by dividing the net income available for common equity by the common equity applicable to rate base. Net income available for common equity for FY 2009 was calculated to be $3,292,720.[25]

Mr. Richer discussed a number of adjustments made to operating revenues, expenses and interest charges. First, NGrid's 25 percent portion of non-firm margins, in the amount of $98,749, was excluded from fiscal year 2009 earnings. Second, operating revenues were decrease by $296,246 for FY 2009 to reflect the customer portion of non-firm margins. Third, NGrid excluded unbilled revenues from the ESM, decreasing operating revenues by $9,675,881 consistent with the methodology applied in Docket No. 3401. Fourth, NGrid removed $1,773,438 of stored gas inventory from rate base to eliminate carrying costs on stored gas inventory from revenues, which decreased operating revenue. Fifth, seven months of capital tracker revenue requirement totaling $1,140,780 as approved in Docket No. 3943 was excluded from the fiscal year earnings.[26]

The Company also made adjustments to three expense and interest accounts. First, NGrid increased operating expenses by $8,141,029 for unbilled gas costs. Second, $2,450,000 was included in operating expenses in accordance with Order 19563 to include the investors' share of annual net merger savings. Finally, NGrid included interest expense of $175,305 related to customer deposits. Other charges not considered a normal part of the gas distribution business were recorded below the line and not included in the ESM calculation.[27]

Mr. Richer explained that, in order to account for the purchase by NGrid of the regulated Rhode Island assets of Southern Union, the pre-acquisition New England Gas

[25] *Id.* at 3-4, WRR-1.
[26] *Id.* at 5-7, WRR-1 at 2, WRR-4 at 1.
[27] *Id.* at 7-8, WRR-1 at 2.

Company's book/tax timing differences were transferred to the books of Southern Union. NGrid began recording its own deferred tax liabilities following the acquisition. For the ESM federal income tax calculation, NGrid used the statutory rate of 35 percent for a total expense of $851,747.[28]

Mr. Richer utilized an imputed capital structure as specified in the Commission's Order No. 19563 in Docket No. 3943 to calculate the average cost of capital: 11.66 percent short-term debt, 40.63 percent long-term debt, and 47.71 percent common equity. NGrid computed the cost of long-term debt by multiplying the base applicable to long-term debt times NGrid's actual long-term debt rate for 2009 of 7.99 percent. The Company calculated short-term debt by multiplying the rate base applicable to short-term debt times 1.46 percent which is the twelve month average cost of short-term debt. Also, NGrid included funds associated with the allowance for funds used during construction in calculating operating income.[29]

In calculating the rate base, NGrid used a five-quarter average for the year ending June 30, 2009. Mr. Richer excluded environmental response costs and prepaid taxes from rate base in accordance with the Settlement Agreement in Docket No. 3401. He did include construction work in progress in the rate base and computed the working capital allowance pursuant to the method approved in Docket No. 3943. Also, the deferred debits in the rate base included Y2K costs, to be amortized at the rate of $240,000 per year. He excluded the costs associated with legacy customer-information systems, stored gas inventory and customer deposits. Finally, NGrid included a hold harmless rate base credit as a reduction to rate base. Mr. Richer also noted that the annual reconciliation

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[28] *Id.* at 8-9, WRR-1 at 2, 3, 5.

[29] *Id.* at 10-11, WRR-1 at 2, 4, 11, 12.

expense of pension and post-retirement benefits other than pensions is handled through the DAC, while the reconciliation of annual funding reconciliation is reflected as an adjustment to rate base in the Earnings Sharing Mechanism. He noted a cumulative rate base addition of $927,999 to reflect the annual funding reconciliation of pension and post-retirement benefits other than pensions as allowed for in Docket No. 3943.[30]

Mr. Richer noted that common equity applicable to rate base was $281,337,323, which was the sum of the average rate base times 47.71 percent, the capital structure equity percentage approved in Docket No. 3943. He also discussed pension and post-retirement benefits other than pensions expense annual reconciliation through the DAC. This adjustment is designed to recover or refund any under- or over-collection of the prior year's expense. Mr. Richer noted a pension under-collection of $169,248 and a post-retirement benefits other than pensions under-collection of $711,293.[31]

The Commission also approved a Capital Expenditures Tracker ("CXT") in Docket No. 3943 to allow for collection or refund of the revenue requirement impact associated with variations in capital spending. In Order No. 19710, the Commission approved a one-time adjustment to the revenue requirement with a one-time adjustment to ratepayers should NGrid fail to meet a net plant in service investment threshold of $314,249,000. Since the five-quarter average of the net plant in service is projected to be only $304,880,308, the revenue requirement impact calculation resulted in $1,955,623 to be returned to ratepayers.[32]

[30] *Id.* at 11-12, WRR-1 at 5, 6, 7.
[31] *Id.* at 13-14, WRR-3.
[32] *Id.* at 14-15, WRR-4.

IV. NATIONAL GRID'S SEPTBEMBER 29, 2009 FILING

On September 29, 2009, NGrid filed updates to its September 1, 2009 filing. Specifically, the Reconciliation Factor and Capital Tracker Factor were updated with actual data for August 2009. This did not result in a change to the proposed factors of $0.0038 and ($0.0110) respectively. The PBOP Factor was updated to account for the additional information provided and explained in NGrid's response to data requests filed by the Division resulting in an increase in the factor from $0.0025 to $0.0033. Finally, the Environmental Response Cost Factor was updated to account for an insurance payment received by the Legal Department that was addressed in NGrid's response to a Division data request and results in a reduction of the factor from ($0.0015) to ($0.0018). In sum, the overall impact of these updates is a DAC rate of ($0.0112) per therm.[33]

V. DIVISION'S DIRECT TESTIMONY

On October 1, 2009, the Division of Public Utilities and Carriers ("Division") filed the direct testimony of its consultant, Bruce R. Oliver, President of Revilo Hill Associates, Inc. Mr. Oliver discussed all elements of the DAC except the PBOP, ESM and the CXT, which were reviewed by Division witness, David Effron. Mr. Oliver noted that the current rate proposed by the Company reflects a $0.0080 decrease from the current DAC rate.[34]

Mr. Oliver noted that the System Balancing Factor established in Docket No. 3943 of 0.1610 is multiplied by the Total LNG Commodity Related Costs and divided by projected weather-normalized, annual Firm Throughput to yield a System Pressure Factor in dollars per therm. He found NGrid's calculation of the Updated System Pressure

[33] NGrid Exhibit No. 4, Supplemental Update to Schedules filed September 29, 2009.
[34] Division Exhibit 1a, Direct Testimony of Bruce R. Oliver, filed October 1, 2009 at 3.

Factor calculations to be consistent with NGrid's past actual experience and reflective of reasonable planning assumptions. Mr. Oliver observed that the $0.0038 per therm System Pressure Factor proposed by NGrid is a small increase over the current factor of $0.0037. Mr. Oliver withheld recommendation of the proposed factor noting that it represented a noticeable difference in its original August 3, 2009 filing which was a $0.0034 per therm factor and that there are significant changes in projected Withdrawal Commodity costs for which NGrid had yet to provide an explanation.[35]

For the AGT factor, Mr. Oliver noted that a balance of $715,013 remains unexpended and uncommitted from fiscal year 2009. NGrid proposed an increase of $0.0008 from last year for an AGT factor of ($0.0008) for the coming year. Removal of the AGT credit will provide a total of $1,015,013 in available funds for new projects. Mr. Oliver recommended that the AGT Program Factor for the coming year be restored to $0.0000 per therm. He noted that even though NGrid does not have any major projects that will require funding for the November 2009 to October 2010 time period, it does have a customer that has completed a design study and is currently evaluating alternatives for a $15-$25 million dollar project expected to be in service in May 2011. While the customer intends to apply for $500,000 in rebates, NGrid has suggested that the potential rebate amount could exceed $1.5 million, which would reduce the availability of AGT funds for other potential projects. Mr. Oliver suggested that the Commission should examine the costs and benefits of such a project as well as the rate impacts of such funding on other customers prior to NGrid authorizing a rebate of this size.[36]

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[35] *Id.* at 4-7.
[36] *Id.* at 8-11.

For the LIAP factor, Mr. Oliver stated that the LIAP funding is $1,785,000 per year. The funding consists of $1,585,000 for LIHEAP and $200,000 for Low Income Weatherization Program activities. Although the Company overspent its available funds resulting in a negative carry forward balance of $9,415, it does not seek additional funding through this factor and the factor remains at $0.0000 per therm[37]

Regarding the ERC factor designed to recover reasonable and prudently incurred environmental response costs, Mr. Oliver noted that NGrid's August 3, 2009 filing seeks approval of a net recovery of ($546,199). This negative amount reflects: a 10-year amortization of $12,510,252 of net ERC costs incurred through the end of fiscal year 2002; a 10-year amortization of ($6,012,673) of net ERC costs for fiscal year 2003; a 10-year amortization of ($472,960) of net ERC costs for fiscal year 2004; a 10-year amortization of $136,707 of net ERC rates for fiscal year 2005; a 10-year amortization of $436,020 of net ERC costs for fiscal year 2006; a 10-year amortization of ($758,291) of net ERC costs for fiscal year 2007; a 10-year amortization of ($45,755) of net ERC costs for fiscal year 2008; a 10-year amortization of $1,844,698 of net ERC costs for fiscal year 2009 and a deduction of $1,310,000 for budgeted base rate recovery of ERC costs. As a result, the net balance of un-recovered ERC at the end of the fiscal year 2009 was $1,816,704. He noted that NGrid updated the proposed ERC credit factor in its September 28, 2009 filing to ($0.0018) per therm representing a net credit to firm customers.[38]

Mr. Oliver stated that for fiscal year 2009 three projects account for 85% of the total $1,844,698 environmental costs. Mr. Oliver also pointed out that NGrid omitted a

[37] *Id.* at 12-13.
[38] *Id.* at 13-17.

credit for an insurance settlement in the amount of $898,744 in its computations, which resulted in the increase in the credit to ($0.0018) per therm from the originally filed ($0.0015). Mr. Oliver noted that he is unable to determine the reasonableness of the expenses, because NGrid has not provided sufficient information from which he can form conclusions as to reasonableness. While he finds the mathematical calculations to be accurate and consistent with the tariff, he suggests that the Commission either order a more detailed audit or require regular submissions of detailed documentation and descriptions of those expenses the Company seeks to recover.[39]

In the area of on-system margin credits, Mr. Oliver noted that Docket No. 3943 established a new margin revenue threshold which is applied to revenue margins derived from firm and non-firm Dual Fuel customers, as well as Special Contract customers, for all periods subsequent to November 1, 2008. Under the newly approved method, all revenue margins from dual fuel customers (firm and non-firm) as well as revenue margins from non-firm special contracts that exceed an annual threshold of $2,816,000 exclusive of Rhode Island Gross Earnings Tax are credited 100% to customers through the MC Factor. For the four month period preceeding November 1, 2008, 75% of actual non-margin firm revenue exceeding $1.6 million was credited to the NGrid's firm service customers and 25% was retained by the Company. Calculations by the Company using both methods produce a total revenue credit of $706,610 and an MC Factor of ($0.0020). Mr. Oliver found the calculations correct; however, he noted that a high percentage of customers had billing adjustments made to initial bills based on estimates, leaving little basis for verification of actual usage and appropriate revenue billings.[40]

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[39] *Id.* at 17-21.
[40] *Id.* at 22-26.

Mr. Oliver noted that the SQP Factor used to credit customers with penalties assessed against the Company and reflected in the Company's Annual Service Quality Report was $0.0000 per therm as no penalties were reflected in that Report. As for the Weather Normalization factor, Mr. Oliver found no reason to question NGrid's proposed factor of ($0.0040). He noted that while of the 5,024 heating degree days ("HDDs") from November 2009 through April 2009 and actual HDDs were 254 HDDs above normal, the upper bound of the plus or minus 2% dead band around Normal Heating Degree Days was 4,865 HDDs. Because there were 159 HDDs above the 2% colder than normal threshold at $9,000 per excess HDD, the Company calculated a credit of $1,431,000 to customers for a WN Factor of ($0.0040).[41]

Mr. Oliver found no reason to challenge the reconciliation factor. Additionally, with the exception of his reservations about the reliability of the ERC Factor and the On-System Margin Credit determinations, Mr. Oliver proposed no changes to the Company's DAC rate adjusted for uncollectibles of ($0.0112).[42]

Mr. Effron reviewed the calculation of the PBOP component of the DAC. He noted that at the present time, he was not recommending any adjustment to this component but reserved the right to do so at a later time after discovery was complete. Regarding the ESM, Mr. Effron pointed out that he had not identified any adjustments that would have the potential to increase the Company's return on equity of 2.45% to the earnings sharing threshold. Mr. Effron recommended modifying the CXT to reflect the actual average balance of the accumulated deferred income taxes for the twelve months

[41] *Id.* at 26-29.
[42] *Id.* at 30-31.

ending September 30, 2009. He noted that after modification, the preliminary annual revenue requirement effect of the reconciliation of capital spending is $2,807,000.[43]

Mr. Effron noted that the revenue requirement consists of a return on the net rate base effect of the difference between forecasted and actual capital expenditures. Added to this difference is depreciation expense and municipal taxes. The rate base used in the calculation consists of plant in service less accumulated depreciation and accumulated deferred income taxes ("ADIT"). ADIT is deducted from plant in service because that is consistent with the calculation of rate base provided by the Company in Docket No. 3943. Mr. Effron recommended this modification noting that the Company did not perform its "Deferred Tax Calculation" in this manner but used an estimating method that was not consistent with the calculation of rate base provided by the Company in Docket No. 3943.[44]

The forecasted average rate year balance of ADIT in Docket No. 3943 was $8,952,000. Mr. Effron found that based on actual data, he calculated an average balance for the twelve months ending September 20, 2009 to be $15,925,999 which exceeds the forecasted rate year balance by $6,973,000. Mr. Effron noted that the effect of this adjustment to ADIT increases the difference between the forecasted rate base and actual rate base by $16,342,000. Based on the modification to the reconciliation of net rate base, the annual revenue requirement effect of the capital spending reconciliation is $2,807,000 which should be used as the basis for calculating the credit for the capital expenditure reconciliation in the DAC.[45]

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[43] Division Exhibit 1b, Direct Testimony of David J. Effron, filed October 1, 2009 at 1-4.
[44] *Id.* at 4-5.
[45] *Id.* at 5-7.

VI. NATIONAL GRID'S REBUTTAL TESTIMONY

On October 15, 2009, NGrid filed the rebuttal testimony of William Richer. Mr. Richer noted that in its original filing, NGrid included the incremental effect of the actual capital spending shortfall on Accumulated Deferred Income Tax in its CXT calculation, because the capital spending reconciliation mechanism in the Accelerated Replacement Plan ("ARP") included ADIT in its calculation. Mr. Richer pointed out that neither of the Commission's Order Nos. 19563 or 19710 in Docket No. 3943 mention ADIT. In light of the Commission's prior orders, Mr. Richer recalculated the CXT removing the ADIT reconciliation from this calculation. This resulted in customers receiving an additional $80,000 to $90,000 in this year's filing due to the one-time and annual CST adjustment as well as an additional ongoing annual CST adjustment of approximately $45,000 to $50,000 in each future year. The overall DAC rate is adjusted from ($0.0112) per therm to ($0.0116) per therm.[46]

VII. NATIONAL GRID'S OCTOBER 21, 2009 SUPPLEMENTAL TESTIMONY

On October 21, 2009, NGrid filed supplemental information to Division Data Request 2-3(a) in response to the Testimony of Mr. Oliver. The supplemental information provided more detail concerning environmental response costs and expenses and a more detailed explanation of consultant and contractor services. The filing also updated information for the Capital Tracker Factor using the calculations that were approved by the Commission in Docket No. 3943. The supplemental information resulted in updates to the DAC rate of ($0.0116) per therm resulting in annual savings of $7.75 for the average residential heating customer.

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[46] NGrid Exhibit 5, Rebuttal Testimony of William R. Richer, filed October 15, 2009 at 1-4.

VIII. OCTOBER 22, 2009 LETTER FROM DIVISION

On October 22, 2009, the Division filed a letter indicating that based on the Rebuttal Testimony of Mr. Richer, the Division believed NGrid had correctly calculated the CXT to comply with the Commission's Order adopting the Division's proposed method of calculating the rate base adjustment. Therefore, the Division withdrew the portion of Mr. Effron's testimony relating to the calculation of the CXT.

IX. HEARING

Following published notice, a public hearing was conducted on October 26, 2009 at the Commission's offices at 89 Jefferson Boulevard, Warwick, Rhode Island. The following appearances were entered:

FOR NGRID	:	Thomas Teehan, Esq.
FOR THE DIVISION	:	Leo Wold, Esq. Assistant Attorney General
FOR THE COMMISSION:		Patricia S. Lucarelli, Esq. Chief of Legal Services

At the hearing, counsel for the Division noted that at the time of the hearing, the Division had not had the opportunity to review discovery responses that it had received a few days prior regarding calculation of the pension benefit. He pointed out that the Division and NGrid agreed that after review, if necessary, the Division would inform the Commission that further review was necessary or adjustments could be made to the next DAC review. The Division also withdrew Mr. Effron's previous testimony and recommendation regarding the capital expense factor noting that the issue had been resolved. In response to Commissioner Roberti's request, NGrid agreed to confer with the Division regarding the terms of benefits in the insurance agreements with Southern

Union and what opportunities NGrid has to follow-up with Southern Union to ensure that it is doing the most to collect under those agreements to the benefit of the ratepayers.[47]

COMMISSION FINDINGS

Immediately upon conclusion of the hearing, on October 26, 2009, the Commission discussed the matter and approved the proposed factor of ($0.0116) per therm for effect November 1, 2009. The approved DAC factor should credit approximately $7.74 annually to residential heating ratepayers. The Commission is satisfied that the evidence presented by NGrid supports the approved DAC factor.

Specifically, the DAC is composed of eleven factors: System Pressure, Environmental Response Cost, Advanced Gas Technology, Low Income Assistance Program, Weather Normalization, Pension and Post Retirement Benefits, Capital Expenditure Tracker, On-System Margin Credit, Reconciliation, Service Quality Performance and the Earnings Sharing Mechanism. With regard to the System Pressure Factor, LNG commodity costs are projected to increase resulting in a change to the System Pressure Factor from $0.0037 to $0.0038 per therm. Also, the Commission approved an Environmental Response Cost credit factor of ($0.0018) per therm. The Commission is satisfied with the testimony of NGrid that there is an educational customer that will engage in a sizable project and has informed NGrid of its intention to seek rebates. Therefore, the Commission will approve NGrid's request to allow the $300,000 of Advanced Gas Technology funding.

After review of the parties' testimonies and representations regarding the Pension and Post-Retirement Benefits Factor and the Division's request for more extensive

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[47] Transcript of Hearing, October 26, 2009 at 108-112.

review of the Responses to its Fourth Set of Data Requests, the Commission approved the Pension and Post-retirement Benefits Factor of $0.0033 based on the representation of the parties that should the Division find cause for further adjustments prior to next year's reconciliation, the parties will re-file forthwith. The Commission was satisfied that the Capital Expenditure Tracker calculation performed by NGrid complies with the Commission's prior order in Docket No. 3943 and as such approved the Capital Expenditure Tracker factor of ($0.0114). As for the On-System Margins factor, NGrid filed a credit of ($0.0020) per therm to return $706,610 to ratepayers. Regarding the reconciliation factor, the Division testified at the hearing that it was satisfied with the 0.0008 factor proposed by NGrid. Therefore, the Commission approved this factor. The Commission approved the ($0.0040) Weather Normalization Factor. As for the Earning Sharing Mechanism factor, NGrid did not earn a ROE above 11.25% for fiscal year 2009. Thus, no adjustments the Commission could have made would have brought the ROE above 11.25%. Accordingly, the Commission approved NGrid's proposed Earning Sharing Mechanism credit factor of ($0.0000) per therm. The other components of the DAC, Low Income Assistance Program and Service Quality Performance remain unchanged. Regarding the Southern Union insurance agreements related to the Environmental Response Cost factor, the Commission orders NGrid to review and investigate these contracts and their enforcement to ensure the maximum benefit to ratepayers.

Accordingly, it is

(19833) ORDERED:

1. The System Pressure factor of $0.0038 per therm is approved for effect November 1, 2009.
2. The funding of the Advanced Gas Technology factor in the amount of $300,000 shall resume November 1, 2009.
3. The Environmental Response Cost credit factor of ($0.0018) per therm is approved for effect November 1, 2009.
4. The Weather Normalization factor of ($0.0040) per them is approved for effect November 1, 2009.
5. The Reconciliation factor of $0.0008 per therm is approved for effect November 1, 2009.
6. The On-System Margin credit factor of ($0.0020) per therm is approved for effect November 1, 2009.
7. The Pension and Post-Retirement Benefits factor of $0.0033 per therm is approved for effect November 1, 2009.
8. The Capital Expenditure Tracker factor of ($0.0114) per therm is approved for effect November 1, 2009.
9. The overall Distribution Adjustment Charge credit of ($0.0116) per therm is approved for effect November 1, 2009.
10. NGrid shall confer with the Division to review and investigate the terms of the Southern Union insurance contracts.

11. National Grid shall comply with all other findings and instructions contained in this Report and Order.

EFFECTIVE NOVEMBER 1, 2009 AT WARWICK, RHODE ISLAND PURSUANT TO A BENCH DECISION ON OCTOBER 26, 2009. WRITTEN ORDER ISSUED NOVEMBER 20, 2009.

PUBLIC UTILITIES COMMISSION

Elia Germani, Chairman

Mary E. Bray, Commissioner

Paul J. Roberti, Commissioner

Attachment A

National Grid - RI Gas

Docket No. 4077

Division Revised DAC Summary & Comparison to National Grid's Udpated DAC

Line No.	Current	As Proposed By NGrid	Division Position
1 System Pressure (SP) Factor	$ 0.0037	$ 0.0038	$ 0.0038
2 Advanced Gas Technology (AGT) Factor	$ (0.0008)	$ -	$ -
3 Low Income Assistance Program (LIAP) Factor	$ -	$ -	$ -
4 Environmental Response Cost (ERC) Factor	$ (0.0020)	$ (0.0018)	$ (0.0018)
5 Pension and Post-Retirement Benefits (PBOP) Factor	$ -	$ 0.0033	$ 0.0033*
6 Capital Expenditures Tracker (CXT)	$ -	$ (0.0114)	$ (0.0114)
7 On-System Margin Credit (MC) Factor	$ (0.0080)	$ (0.0020)	$ (0.0020)
8 Service Quality Performance (SQP)	$ -	$ -	$ -
9 Weather Normalization (WN) Factor	$ -	$ (0.0040)	$ (0.0040)
10 Earnings Sharing Mechanism (ESM)	$ -	$ -	$ -
11 Reconciliation (R) Factor	$ 0.0010	$ 0.0008	$ 0.0008
12 Subtotal	**$ (0.0061)**	**$ (0.0113)**	**$ (0.0113)**
13 Uncollectible Percentage	2.46%	2.46%	2.46%
14 **DAC Adjusted for Uncollectibles**	**$(0.0063)**	**$ (0.0116)**	**$ (0.0116)**

*The Division accepts this factor conditionally upon completion review of NGrid's October 22, 2009 responses to its fourth set of data requests and its ability to further evaluate and comment on this factor.