

STATE OF RHODE ISLAND  
PUBLIC UTILITIES COMMISSION

IN RE: NARRAGANSETT ELECTRIC --  
APPLICATION TO IMPLEMENT  
ELECTRICITY AND GAS DECOUPLING  
MECHANISM

Docket No. 4206

**COMMENTS OF CONSERVATION LAW FOUNDATION  
ON PROPOSED REVENUE DECOUPLING MECHANISMS**

Conservation Law Foundation (CLF) respectfully submits its comments to the Public Utilities Commission (PUC) on the Revenue Decoupling Mechanisms (RDMs) under consideration in this Docket.

CLF strongly supports decoupling and respectfully urges the PUC to approve RDMs on both the electricity side and the gas side in this Docket. CLF, however, suggests a change in the decoupling proposal submitted by Grid. CLF respectfully urges the PUC to approve an RDM on the gas side that is not based on target revenue per customer; making this change would avoid the possibility of creating windfall profits for the utility.

There are two principal reasons that the PUC should approve electricity and gas decoupling in this Docket.

First, decoupling is required by Rhode Island law. In 2010, the General Assembly passed the Revenue Decoupling Act, R. I. Gen. Laws § 39-1-27.7.1, et seq. This alone is enough for the PUC to approve decoupling in this Docket.

Second, decoupling is good public policy. As Shanna Cleveland, CLF's expert witness in Docket # 4065, explained:

Traditional utility regulation creates a disincentive for utilities to promote energy efficiency and conservation or to support policies that advance efficiency and conservation because any reduction in sales inevitably causes a reduction in revenue and profits for the utility. This is true because traditional utility ratemaking couples a utility's revenues, and ability to capture authorized rate of return, with the volume of its sales, providing a strong incentive to sell more of the regulated commodity. This volumetric method of compensation means that any affirmative effort to provide an incentive for the utility to provide energy efficiency and conservation services to customers (lowering the customers' bills and the customers' environmental impact) also results in a reduction in the core revenue received by the utility as the total volume of regulated commodity sold declines. Thus, the purely volumetric compensation of the utility (the current and historic model that decoupling would replace) creates an inherent tension within the business model, economics and culture of the utility that always threatens to undermine efforts to cast the utility in the role of efficiency and conservation service provider to customers.

Decoupling eliminates this problem by aligning the utility's pecuniary interest with the public interest in fostering efficiency and conservation. This is good for the environment (because reduced use of energy commodities means lower need to extract resources from the earth and reduced emissions from fuel combustion) and is good for consumers (because reduced use means lower bills and lower customer cost) . . . .

In short, decoupling is good for two reasons of public policy. First, decoupling ensures that utility financial incentives are aligned with the public interest and with helping their customers use energy more efficiently. Second, decoupling also ensures that utilities have timely cost recovery for moneys expended on advancing efficiency.

September 15, 2009 Pre-Filed Testimony of Shanna Cleveland, Esq., on behalf of CLF in Docket # 4065, at pages 7-8.

In Docket # 3943, this Commission disapproved a decoupling mechanism proposed by National Grid (Grid) on the gas side, and in Docket # 4065 the Commission disapproved a decoupling mechanism proposed by Grid on the electricity side. CLF supported the decoupling proposals in both dockets. In Docket # 4065, Ms. Cleveland testified concerning a June 2009

report by Pamela G. Lesh entitled “Rate Impacts and Key Design Elements of Gas and Electric Utility Decoupling: A Comprehensive Review” (the Lesh Report). The Lesh Report was based on a survey of 28 natural gas utilities and 12 electric utilities in 17 states that have operative decoupling mechanisms. CLF provided a copy of the Lesh Report to the PUC in Docket # 3943 (as an exhibit to Ms. Cleveland’s Pre-Filed testimony), and Ms. Cleveland testified about one of the most significant findings of the Lesh Report:

[One] significant finding is this: “Decoupling adjustments go both ways, providing both refunds and surcharges to customers . . . Regardless of the particular combination of causes for any given adjustment, no pattern of either rate increases or decreases emerges.”

I think this . . . finding is . . . crucially important. Decoupling is sometimes portrayed by opponents as a trick or a ruse that can only increase a utility’s income at the expense of ratepayers. Actual, real-world experience in jurisdictions that have implemented decoupling shows that this is just not true. When commodity use decreases -- say, because of efficiency programs or an unusually cool summer -- rates do go up (by a very small amount). But, importantly, when commodity use increases for any reason -- say, an unusually hot, humid summer -- rates actually go down. This is a two-way ratchet, not a one-way ratchet. When commodity use increases, decoupling prevents the utility from making unexpected (or even windfall) profits.

September 15, 2009 Pre-Filed Testimony of Shanna Cleveland, Esq., on behalf of CLF in Docket # 4065, at page 18.

Ms. Cleveland’s testimony in Docket # 4065 was prescient in several respects.

First, opponents of decoupling Docket # 4065 did, in fact, portray decoupling as a ruse that would only increase a utility’s income at the expense of ratepayers. For example, this was the testimony of John Farley of The Energy Council of Rhode Island (TEC-RI): “[T]he plan

would allow a broad range of automatic rate adjustments that would result in rate increases without any required review of the Company's actual expenses overall or its actual earned returns on capital . . . There is no down side to the Company. The only down side is to the ratepayers." Farley September 15, 2009 Pre-Filed Testimony in Docket # 4065, at page 27, line 17 to page 28, line 5 [emphasis supplied].

Second, the summer of 2010, immediately following the PUC's decision in Docket # 4065 not to decouple electricity prices, was, in fact, unusually hot and humid; had the PUC approved decoupling, electricity rates would have decreased that summer as commodity use increased. Instead, Grid made windfall profits of \$5.2 million. The windfall cannot fairly be called "unforeseen" because just this possibility was both foreseen and testified to by Ms. Cleveland. Nevertheless, if the Commission had approved electricity decoupling in Docket # 4065, as urged by Grid, CLF, and others, Rhode Island ratepayers would now be receiving \$5.2 million in rebates from Grid; however, as a result of the failure to decouple, Grid keeps its windfall and ratepayers do not receive a rebate. This result, while unfortunate, was not unforeseen.

As mentioned above, CLF suggests one improvement to the specific decoupling proposals submitted by Grid on October 18, 2010. On the electricity side, Grid is proposing in this Docket a decoupling mechanism that uses an Annual Target Revenue (ATR) that applies the concept of target revenue to the entire utility. However, on the gas side, Grid is proposing in this Docket a decoupling mechanism that uses a very different concept – a target Revenue Per Customer (RPC) that applies the concept of target revenue to a single customer. As a result, if

Grid gets more gas customers (say, as a result of ratepayers switching from oil heat to gas heat), Grid would receive a windfall. That is because the same target revenue per customer multiplied over a larger number of customers, yields more overall profit. A proposal (such as this one) that contemplates a revenue per customer RDM on the gas side, where such customer migration is far more likely to occur than on the electricity side, should be viewed with skepticism and is not consistent with the intent of decoupling.

On this issue, too, there is important history. In Docket # 3943, the gas rate case, Grid proposed a decoupling mechanism based on target revenue per customer and was sharply criticized for doing so.

In Docket # 3943, the Division's witness, Bruce Oliver, criticized the decoupling proposal, in part, because it "provides the Company opportunities for growth in allowed distribution revenue between rate cases if the number of customers served continues to grow." July 25, 2008, Pre-Filed Direct Testimony of Bruce Oliver in Docket # 3943, at page 15, lines 2-4.

Similarly, in his testimony, TEC-RI witness John Farley said, "[A]ll this comes down to is the company . . . is allowed to collect its target revenue per customer times the number of customers in the class. Whenever that number of customers goes up, it's [the company is] allowed to collect more revenue." Transcript of September 29, 2008, hearing in Docket # 3943, testimony of John Farley, page 34 line 22 to page 35 line 3).

In Docket # 4065, the electricity rate case, CLF supported the utility's decoupling proposal and was especially pleased that Grid had corrected the problem that had been pointed

out in the earlier gas rate case by Messrs. Oliver and Farley. In Docket # 4065, Ms. Cleveland testified:

In the current electricity Docket, there is no revenue per customer (RPC) concept whatever. Instead, the entire proposal is based on something entirely different: Annual Target Revenues (ATR). This is not based on individual customers or even classes of customers . . . Instead, it is based on ATR for the entire Company. Thus, the problem perceived last year by these witnesses [Messrs. Oliver and Farley] for the Division and TEC-RI -- that Company revenue could grow beyond the ROE allowed by the Commission if the number of customers increased -- is not a problem and not an issue in this Docket. . . .

The decoupling mechanism that failed to win Commission approval in Docket 3943 did allow utility revenue to grow any time and every time there was a rise in the number of customers. The decoupling mechanism that the Company is proposing in this Docket does not allow utility revenue to grow based on changes in the number of customers. That is because the critical, central mechanism in this docket is not at all a revenue per customer system, but rather a revenue-for-the-whole-company system.

September 15, 2009 Pre-Filed Testimony of Shanna Cleveland, Esq., on behalf of CLF in Docket # 4065, at pages 30-31.

Unfortunately, the RDM on the gas side proposed by Grid in the current Docket reverts to the earlier method of target revenues per customer. This is like the decoupling proposal that was criticized in Docket # 3943, and unlike the much better decoupling mechanism that Ms. Cleveland praised in Docket # 4065.

Grid argues that the revenue per customer proposal in the current Docket conforms to the requirements of the Decoupling Statute. October 18, 2010 Pre-Filed Testimony of Jennifer B. Weinstein and Jeanne A. Lloyd in Docket # 4206, pages 21 line 10 - page 22, line 11. This argument, while true, misses the point. As the Lesh Report makes clear, there is an infinite

number of ways that a utility can effect decoupling. Of the 28 natural gas utilities and 12 electric utilities in 17 states that were surveyed in the Lesh Report, no two decoupling proposals were exactly alike. There is absolutely no requirement that a gas decoupling mechanism be based on a revenue per customer concept.

In fact, there are good reasons why a decoupling mechanism on the gas side should not be based on revenue per customer. The underlying public-policy purpose for decoupling is to align utility incentives with the public interest in promoting energy efficiency. The public-policy purpose of decoupling is emphatically not to create opportunities for windfall profits for the utility.

It is easy to design a decoupling mechanism that does not build in an opportunity for windfall profits for the utility. We know this to be true because Grid has done so in this case on the electricity side. Moreover, given the history in Rhode Island of skepticism toward decoupling, the utility and the PUC should be especially careful to approve decoupling mechanisms that do not create opportunities for windfall profits for the utility.

CLF respectfully urges the PUC to approve decoupling in this Docket for both gas and electricity. CLF further urges the PUC to approve a decoupling mechanism on the gas side that is not based on target revenue per customer, in order to avoid any possibility of windfall profits for the utility.

CONSERVATION LAW FOUNDATION,  
by its Attorney,

A handwritten signature in black ink, appearing to read "Jerry Elmer", written over a horizontal line.

Jerry Elmer (# 4394)

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CERTIFICATE OF SERVICE

I hereby certify that, on December 21, 2010, pursuant to PUC Rule of Practice and Procedure 1.7(a), an original and nine copies of the within Comments were hand-delivered to Lully Massaro, Commission Clerk, Public Utilities Commission, 99 Jefferson Blvd., Warwick, RI 02888. In addition, electronic copies of the within Comments were e-mailed to the Commission's most recent service list for this Docket.

  
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